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THE

WRITINGS

OF

THOMAS JEFFERSON:

BEING HIS

AUTOBIOGRAPHY, CORRESPONDENCE, REPORTS, MESSAGES, ADDRESSES, AND OTHER WRITINGS, OFFICIAL AND PRIVATE.

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WITH EXPLANATORY NOTES, TABLES OF CONTENTS, AND A COPIOUS INDEX TO EACH VOLUME, AS WELL AS A GENERAL INDEX TO THE WHOLE,

BY THE EDITOR

H. A. WASHINGTON.

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PART IV.

A MANUAL OF PARLIAMENTARY PRACTICE.

PREFACE.

The Constitution of the United States, establishing a Legislature for the Union under certain forms, authorizes each branch of it "to determine the rules of its own proceedings." The Senate have accordingly formed some rules for its own government: but those going only to few cases, they have referred to the decision of their President, without debate and without appeal, all questions of order arising either under their own rules, or where they have provided none. This places under the discretion of the President a very extensive field of decision, and one which, irregularly exercised, would have a powerful effect on the proceedings and determinations of the House. The President must feel, weightily and seriously, this confidence in his discretion: and the necessity of recurring, for its government, to some known system of rules, that he may neither leave himself free to indulge caprice or passion, nor open to the imputation of them. But to what system of rules is he to recur, as supplementary to those of the Senate? To this there can be but one answer: to the systems of regulations adopted by the government of some one of the parliamentary bodies within these States, or of that which has served as a prototype to most of them. This last is the model which we have studied; while we are little acquainted with the modifications of it in our several States. It is deposited, too, in publications possessed by many, and open to all. Its rules are probably as wisely constructed for governing the debates of a considerative body, and obtaining its true sense, as any which can become known to us; and the acquiescence of the Senate hitherto under the references to them, has given them the sanction of their approbation.

Considering, therefore, the law of proceedings in the Senate as composed of the precepts of the Constitution, the regulations of the Senate,

and where these are silent, of the rules of Parliament, I have here endeavored to collect and digest so much of these as is called for in ordinary practice, collating the parliamentary with the senatorial rules, both where they agree and where they vary. I have done this, as well to have them at hand for my own government, as to deposit with the Senate the standard by which I judge and am willing to be judged. I could not doubt the necessity of quoting the sources of my information; among which Mr. Hatsel's most valuable book is pre-eminent; but as he has only treated some general heads, I have been obliged to recur to other authorities, in support of a number of common rules of practice to which his plan did not descend. Sometimes each authority cited supports the whole passage. Sometimes it rests on all taken together. Sometimes the authority goes only to a part of the text, the residue being inferred from known rules and principles. For some of the most familiar forms, no written authority is or can be quoted; no writer having supposed it necessary to repeat what all were presumed to know. The statement of these must rest on their notoriety.

I am aware, that authorities can often be produced in opposition to the rules which I lay down as parliamentary. An attention to dates will generally remove their weight. The proceedings of Parliament in ancient times, and for a long while, were crude, multiform, and embarrassing. They have been, however, constantly advancing towards uniformity and accuracy; and have now obtained a degree of aptitude to their object, beyond which little is to be desired or expected.

Yet I am far from the presumption of believing, that I may not have mistaken the parliamentary practice in some cases; and especially in those minor forms, which, being practised daily, are supposed known to everybody, and therefore have not been committed to writing. Our resources in this quarter of the globe, for obtaining information on that part of the subject, are not perfect. But I have began a sketch, which those who come after me will successively correct and fill up, till a code of rules shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity, and impartiality.

NOTE.

The rules and practices peculiar to the Senate are printed in small type. Those of Parliament are in large.

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A MANUAL OF PARLIAMENTARY PRACTICE.*

IMPORTANCE OF RULES.

SECTION I.

THE IMPORTANCE OF ADHERING TO RULES.

Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say, "It was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check, and control, on the actions of the majority;

[Judge Wythe.] * Philadelphia, February 28, 1800.

My Dear Sir:—I know how precious your time is, and how exclusively you devote it to the duties of your office, yet I venture to ask a few hours or minutes of it on motives of public service, as well as private friendship. I will explain the occasion of the application. You recollect enough of the old Congress to remember that their mode of managing the business of the House was not only unparliamentary, but that the forms were so awkward and inconvenient that it was impossible sometimes to get at the true sense of the majority. The House of Representatives of the United States are now pretty much in the same situation. In the Senate it is in our power to get into a better way; our ground is this: The Senate have established a few rules for their government, and have subjected the decisions on these and on *all other points of order* without debate, and without appeal, to the judgment of their President, he, for his own sake, as well as theirs, must prefer recurring to some system of rules ready formed; and there

and that they were, in many instances, a shelter and protection to the minority, against the attempts of power."

So far the maxim is certainly true, and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power, are the forms and rules of proceeding, which have been adopted as they were found necessary from time to time, and are become the law of the house; by a strict adherence to which, the

can be no question that the Parliamentary rules are the best known to us for managing the debates, and obtaining the sense of a deliberative body. I have therefore made them my rule of decision, rejecting those of the old Congress altogether, and it gives entire satisfaction to the Senate; insomuch that we shall not only have a good system there, but probably, by the example of its effects, produce a conformity in the other branch. But in the course of this business I find perplexities, having for twenty years been out of deliberative bodies, and become rusty as to many points of proceeding; and so little has the Parliamentary branch of the law been attended to, that I not only find no person here, but not even a book to aid me. I had, at an early period of life, read a good deal on the subject, and common-placed what I read. This common-place has been my pillar; but there are many questions of practice on which that is silent, some of them are so minute indeed, and belong too much to every-day's practice, that they have never been thought worthy of being written down, yet from desuetude they have slipped my memory. You will see by the enclosed paper what they are. I know with what pain you write: therefore I have left a margin in which you can write a simple negative or affirmative opposite every position, or perhaps, with as little trouble, correct the text by striking out or interlining. This is what I have earnestly to solicit from you, and I would not have given you the trouble if I had had any other resource. But you are, in fact, the only spark of Parliamentary science now remaining to us. I am the more anxious, because I have been forming a manual of Parliamentary law which I mean to deposit with the Senate as the standard by which I judge, and am willing to be judged. Though I should be opposed to its being printed, yet it may be done perhaps without my consent; and in that case I should be sorry indeed should it go out with errors that a Tyro should not have committed. And yet it is precisely those to which I am most exposed. I am less afraid as to important matters, because for them I have printed authorities; but it is those small matters of daily practice, which twenty years ago were familiar to me, but have in that time escaped my memory. I hope under these circumstances you will pardon the trouble I propose to you in the enclosed paper. I am not pressed in time, so that your leisure will be sufficient for me. Accept the salutations of grateful and sincere friendship and attachment, and many prayers for your health and happiness from, Dear Sir,

Yours affectionately.

weaker party can only be protected from those irregularities and abuses which these forms were intended to check, and which the wantonness of power is but too often apt to suggest to large and successful majorities.—2 *Hats.* 171, 172.

And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.—2 *Hats.* 149. And in 1698 the Lords say the reasonableness of what is desired is never considered by us, for we are bound to consider nothing but what is usual. Matters of form are essential to government, and 'tis of consequence to be in the right. All the reason for forms is custom, and the law of forms is practice; the reason is quite out of doors. Some particular customs may not be grounded on reason, and no good account can be given of them; and yet many nations are zealous for them; and Englishmen are as zealous as any others to pursue their old forms and methods.—4 *Hats.* 258.

SECTION II.

LEGISLATURE.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.—*Constitution of the United States*, Article I., Section 1.

The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. *Const. U. S.*, Art. I. Sect. 6.

For the powers of Congress, see the following Articles and Sections of the Constitution of the United States:—Art. I., Sec. 4, 7, 8, 9.—Art. II., Sect. 1, 2.—Art. III., Sec. 3.—Art. IV., Sec. 1, 3 5.—And all the Amendments.

SECTION III.

PRIVILEGE.

The privileges of the members of Parliament, from small and obscure beginnings, have been advancing for centuries, with a

firm and never-yielding pace. Claims seem to have been brought forward from time to time, and repeated till some example of their admission enabled them to build law on that example. We can only, therefore, state the point of progression at which they now are. It is now acknowledged, 1st. That they are at all times exempted from question elsewhere, for anything said in their own house: that during the time of privilege, 2d. Neither a member himself, his wife,* or his servants, [*familiares sui*] for any matter of their own, may be† arrested on mesne process, in any civil suit: 3d. Nor be detained under execution, though levied before the time of privilege: 4th. Nor impleaded, cited or subpœnaed, in any court: 5th. Nor summoned as a witness or juror: 6th. Nor may their lands or goods be distrained: 7th. Nor their persons assaulted, or characters traduced. And the period of time, covered by privilege, before and after the session, with the practice of short prorogations under the connivance of the Crown, amounts in fact to a perpetual protection against the course of justice. In one instance, indeed, it has been relaxed by 10 *G.* 3, c. 50, which permits judiciary proceedings to go on against them. That these privileges must be continually progressive, seems to result from their rejecting all definition of them; the doctrine being, that "their dignity and independence are preserved by keeping their privileges indefinite;" and that "the maxims upon which they proceed, together with the method of proceeding, rest entirely in their own breast, and are not defined and ascertained by any particular stated laws."—1 *Blackstone*, 163, 164.

It was probably from this view of the encroaching character of privilege, that the framers of our Constitution, in their care to provide that the laws shall bind equally on all, and especially that those who make them shall not be exempt themselves from their operation, have only privileged "Senators and Representatives" themselves from the single act of arrest in all cases except treason, felony, and breach of the peace, during their attendance at the session of their respective Houses, and in going to and returning from the same, and from being questioned in any other place for any speech or debate in either House.—Const. U. S. Art. I. Sec. 6. Under the general authority "to makes all laws necessary and

* Order of the House of Commons, 1663, July 16.

† Elsynge, 217; 1 Hats. 21; 1 Grey's Deb. 133.

proper for carrying into execution the powers given them," Const. U. S. Art II. Sec. 8, they may provide by law the details which may be necessary for giving full effect to the enjoyment of this privilege. No such law being as yet made, it seems to stand at present on the following ground :—1. The act of arrest is void, *ab initio*, 2 Stra. 989.—2. The member arrested may be discharged on motion, 1 Bl. 166. 2. Stra. 990; or by Habeas Corpus under the Federal or State authority, as the case may be; or by a writ of privilege out of the Chancery, 2 Stra. 989, in those States which have adopted that part of the laws of England.—Orders of the House of Com. 1550, Feb. 20.—3. The arrest being unlawful, is a trespass for which the officer and others concerned are liable to action or indictment in the ordinary courts of justice, as in other cases of unauthorized arrest.—4. The court before which the process is returnable, is bound to act as in other cases of unauthorized proceeding, and liable also, as in other similar cases, to have their proceedings stayed or corrected by the Superior Courts.

The time necessary for going to and returning from Congress not being defined, it will of course be judged of in every particular case by those who will have to decide the case.

While privilege was understood in England to extend, as it does here, only to exemption from arrest *eundo*, *morando*, *et redeundo*, the House of Commons themselves decided that "a convenient time was to be understood."—1580—1 *Hats.* 99, 100. Nor is the law so strict in point of time as to require the party to set out immediately on his return, but allows him time to settle his private affairs, and to prepare for his journey; and does not even scan his road very nicely, nor forfeit his protection for a little deviation from that which is most direct; some necessity perhaps constraining him to it.—2 *Stra.* 986, 987.

This privilege from arrest, privileges of course against all process, the disobedience is punishable by an attachment of the person; as a subpœna ad respondendum, or testificandum, or a summons on a jury; and with reason, because a member has superior duties to perform in another place.

When a Representative is withdrawn from his seat by summons, the 47,700 people whom he represents lose their voice in debate and vote, as they do in his voluntary absence: when a Senator is withdrawn by summons, his State loses half its voice in debate and vote, as it does in his voluntary absence. The enormous disparity of evil admits no comparison.

So far there will probably be no difference of opinion as to the privileges of the two Houses of Congress; but in the following cases it is otherwise. In Dec. 1795, the House of Representatives committed two persons of the names of Randall and Whitney, for attempting to corrupt the integrity of certain members,

which they considered as a contempt and breach of the privileges of the House; and the facts being proved, Whitney was detained in confinement a fortnight, and Randall three weeks, and was reprimanded by the Speaker. In March, 1796, the House of Representatives voted a challenge given to a member of their House, to be a breach of the privileges of the House; but satisfactory apologies and acknowledgments being made, no further proceedings were had. The Editor of the Aurora having in his paper of Feb. 19, 1800, inserted some paragraphs defamatory to the Senate, and failed in his appearance, he was ordered to be committed. In debating the legality of this order, it was insisted in support of it, that every man, by the law of nature, and every body of men, possesses the right of self-defence; that all public functionaries are essentially invested with the powers of self-preservation; that they have an inherent right to do all acts necessary to keep themselves in a condition to discharge the trusts confided to them; that whenever authorities are given, the means of carrying them into execution are given by necessary implication; that thus we see the British Parliament exercise the right of punishing contempts; all the State Legislatures exercise the same power; and every Court does the same; that if we have it not, we sit at the mercy of every intruder who may enter our doors or gallery, and by noise and tumult render proceeding in business impracticable; that if our tranquillity is to be perpetually disturbed by newspaper defamation, it will not be possible to exercise our functions with the requisite coolness and deliberation; and that we must therefore have a power to punish these disturbers of our peace and proceedings. To this it was answered, that the Parliament and Courts of England have cognizance of contempts by the express provisions of their law; that the State Legislatures have equal authority, because their powers are plenary; they represent their constituents completely, and possess all their powers, except such as their Constitutions have expressly denied them; that the Courts of the several States have the same powers by the laws of their States, and those of the Federal Government by the same State laws, adopted in each State by a law of Congress; that none of these bodies, therefore, derive those powers from natural or necessary right, but from express law; that Congress have no such natural or necessary power, nor any powers but such as are given them by the Constitution; that that has given them directly exemption from personal arrest, exemption from question elsewhere for what is said in the House, and power over their own members and proceedings; for these, no further law is necessary, the Constitution being the law; that, moreover, by that article of the Constitution which authorizes them "to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in them," they may provide by law for an undisturbed exercise of their functions, *e. g.* for the punishment of contempts, of affrays or tumults in their presence, &c.; but, till the law be made, it does not exist; and does not exist, from their own neglect; that in the meantime, however, they are not unprotected, the ordinary magistrates and courts of law being open and competent to punish all unjustifiable disturbances or defamations, and even their own sergeant, who may appoint deputies ad libitum to aid him, 3 *Grey*, 59, 147, 255, is equal to the smallest disturbances; that, in requiring a previous law, the Constitution had regard to the inviolability of the citizen as well as of the member; as, should one House, in the regular form of a bill, aim at too broad privileges, it may be checked by the other, and both by the Presi-

dent; and also as, the law being promulgated, the citizen will know how to avoid offence. But if one branch may assume its own privileges without control; if it may do it on the spur of the occasion, conceal the law in its own breast, and after the fact committed make its sentence both the law and the judgment on that fact; if the offence is to be kept undefined, and to be declared only ex re nata, and according to the passions of the moment, and there be no limitation either in the manner or measure of the punishment, the condition of the citizen will be perilous indeed. Which of these doctrines is to prevail, time will decide. Where there is no fixed law, the judgment on any particular case is the law of that single case only, and dies with it. When a new and even a similar case arises, the judgment which is to make, and at the same time apply, the law, is open to question and consideration, as are all new laws. Perhaps Congress, in the meantime, in their care for the safety of the citizens, as well as that for their own protection, may declare by law what is necessary and proper to enable them to carry into execution the powers vested in them, and thereby hang up a rule for the inspection of all, which may direct the conduct of the citizen, and at the same time test the judgments they shall themselves pronounce in their own case.

Privilege from arrest takes place by force of the election; and before a return be made, a member elected may be named of a committee, and is to every intent a member, except that he cannot vote until he is sworn.—*Memor.* 107, 108.—*D'Ewes*, 642. *col.* 2. 653. *col.* 1.—*Pet. Miscel. Parl.* 119; *Lex. Parl. c.* 23; 2 *Hats.* 22. 62.

Every man must, at his peril, take notice who are members of either House returned of record.—*Lex. Parl.* 23, 4—*Inst.* 24.

On complaint of a breach of privilege, the party may either be summoned, or sent for in custody of the sergeant.—1 *Grey*, 88, 95.

The privilege of a member is the privilege of the House. If the member waive it without leave, it is a ground for punishing him, but cannot in effect waive the privilege of the House. —*Grey*, 140. 222.

For any speech or debate in either House, they shall not be questioned in any other place.—*Const. U. S.*, Art. I. Sec. 6. *S. P. protest of Commons to James I.* 1621. 2 *Rapin.* No. 54. p. 211, 212. But this is restrained to things done in the House in a Parliamentary course, 1 *Rush*, 663.—For he is not to have privilege contra morem parliamentarium, to exceed the bounds and limits of his place and duty.—*Com.* p.

If an offence be committed by a member in the House, of which

the House has cognizance, it is an infringement of their right for any person or court to take notice of it, till the House has punished the offender, or referred him to a due course.—*Lex. Parl.* 63.

Privilege is in the power of the House, and is a restraint to the proceeding of inferior courts; but not of the House itself.—2 *Nalson*, 450; 2 *Grey*, 399. For whatever is spoken in the House, is subject to the censure of the House; and offences of this kind have been severely punished, by calling the person to the bar to make submission, committing him to the Tower, expelling the House, &c.—*Scob.* 72; *Lex. Parl. c.* 22.

It is a breach of order, for the Speaker to refuse to put a question which is in order.—*Hats.* 175, 176; 5 *Grey*, 133.

And even in cases of treason, felony, and breach of the peace, to which privilege does not extend as to substance; yet, in Parliament, a member is privileged as to the mode of proceeding. The case is first to be laid before the House, that it may judge of the fact, and of the grounds of the accusation, and how far forth the manner of the trial may concern their privilege. Otherwise it would be in the power of other branches of the government, and even of every private man, under pretences of treason, &c., to take any man from his service in the House; and so as many, one after another, as would make the House what he pleaseth.—*Decision of the Commons on the King's declaring Sir John Hotham a traitor*—4 *Rushw.* 586. So when a member stood indicted of felony, it was adjudged that he ought to remain of the House till conviction. For it may be any man's case, who is guiltless, to be accused and indicted of felony, or the like crime.—23 *El.* 1580.—*D'Ewes*, 283, *col.* 1.—*Lex. Parl.* 133.

When it is found necessary for the public service to put a member under arrest, or when, on any public inquiry, matter comes out which may lead to affect the person of a member, it is the practice immediately to acquaint the House, that they may know the reasons for such a proceeding, and take such steps as they think proper.—2 *Hats.* 259. Of which, see many examples.—2 *Hats.* 256, 257, 258. But the communication is subsequent to the arrest.—1 *Blackst.* 167.

It is highly expedient, says Hatsell, for the due preservation

of the privileges of the separate branches of the Legislature, that neither should encroach on the other, or interfere in any matter depending before them, so as to preclude, or even influence, that freedom of debate, which is essential to a free council. They are, therefore, not to take notice of any bills or other matters depending, or of votes that have been given, or of speeches that have been held, by the members of either of the other branches of the Legislature, until the same have been communicated to them in the usual Parliamentary manner.—2 *Hats.* 252; 4 *Inst.* 15; *Seld. Jud.* 63. Thus the King's taking notice of the bill for suppressing soldiers depending before the House, his proposing a provisional clause for a bill before it was presented to him by the two Houses, his expressing displeasure against some persons for matters moved in Parliament during the debate and preparation of a bill, were breaches of privilege.—2 *Nalson*, 743. And in 1783, December 17, it was declared a breach of fundamental privileges, &c. to report any opinion or pretended opinion of the King, on any bill or proceeding depending in either House of Parliament, with a view to influence the votes of the members.—2 *Hats.* 251, 6.

SECTION IV.

ELECTIONS.

The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.—*Const. U. S.* Art. I. Sect. 4.

Each House shall be the judge of the elections, returns, and qualifications of its own members.—*Const. U. S.* Art. I. Sec. 5.

SECTION V.

QUALIFICATIONS.

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled, in consequence of

the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the end of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments, until the next meeting of the Legislature, which shall then fill such vacancies.

No person shall be a Senator, who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.—*Const. U. S.* Art. I. Sec. 3.

The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand; but each State shall have at least one Representative. *Const. U. S.* Art. I. Sec. 2.

The provisional apportionments of Representatives made in the Constitution in 1787, and afterwards by Congress, were as follows:—

	1787	1793	1801	1813
New Hampshire,	3	4	5	6
Massachusetts,	8	14	17	20
Rhode Island,	1	2	2	2
Connecticut,	5	7	7	7
Vermont,		2	6	6
New York,	6	10	17	27
New Jersey,	4	5	6	6
Pennsylvania,	8	13	18	23
Delaware,	1	1	1	2
Maryland,	6	8	9	9
Virginia,	10	19	22	23
Kentucky,		2	3	10
Tennessee,			1	6
North Carolina,	5	10	12	13
South Carolina,	5	6	8	9
Georgia,	3	2	4	6
Ohio,				6

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.—*Const. U. S.* Art. I. Sec. 2.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.—*Const. U. S.* Art. I. Sec. 6.

SECTION VI.

QUORUM.

A MAJORITY of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.—*Const. U. S.* Art. I. Sec. 5.

In general, the chair is not to be taken till a quorum for business is present; unless, after due waiting, such a quorum be despaired of, when the chair may be taken, and the House adjourned. And whenever, during business, it is observed that a quorum is not present, any member may call for the House to be counted; and being found deficient, business is suspended.—2 *Hats.* 125, 126.

The President having taken the chair, and a quorum being present, the journal of the preceding day shall be read to the end, that any mistake may be corrected that shall have been made in the entries.—*Rules of the Senate*, 1.

SECTION VII.

CALL OF THE HOUSE.

On a call of the House, each person rises up as he is called, and answereth; the absentees are then only noted, but no excuse to be made till the House be fully called over. Then the absentees are called a second time, and if still absent, excuses are to be heard.—*Ord H. of C.* 92.

They rise that their persons may be recognized; the voice, in such a crowd, being an inefficient verification of their presence. But in so small a body as the Senate of the United States, the trouble of rising cannot be necessary.

Orders for calls on different days may subsist at the same time. —2 *Hats.* 72.

SECTION VIII.

ABSENCE.

No member shall absent himself from the service of the Senate without leave of the Senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the sergeant-at-arms, or any other person or persons by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made, as the Senate, when a quorum is convened, shall judge sufficient, and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the Senate, at the legal time of meeting, as to each day of the session, after the hour is arrived to which the Senate stood adjourned.—*Rule* 19.

SECTION IX.

SPEAKER.

The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.—*Const. U. S.* Art. 1. Sec. 3.

The Senate shall choose their other officers, and also a President pro tempore in

the absence of the Vice-President, or when he shall exercise the office of President of the United States.—*Const. U. S.* Art. I. Sec. 3.

The House of Representatives shall choose their Speaker and other officers.—*Const. U. S.* Art. I. Sec. 3.

When but one person is proposed, and no objection made, it has not been usual in Parliament to put any question to the House; but without a question, the members proposing him, conduct him to the chair. But if there be objection, or another proposed, a question is put by the clerk.—2 *Hats.* 168. As are also questions of adjournment.—6 *Grey*, 406. Where the House debated and exchanged messages and answers with the King for a week, without a Speaker, till they were prorogued. They have done it de die in diem for 14 days.—1 *Chand.* 331, 335.

In the Senate, a President pro tempore, in the absence of the Vice-President, is proposed and chosen by ballot. His office is understood to be determined on the Vice-President's appearing and taking the chair, or at the meeting of the Senate after the first recess.—*Vide Rule* 23.

Where the Speaker has been ill, other Speakers pro tempore have been appointed. Instances of this are, 1 *H.* 4, Sir John Cheney, and for Sir William Sturton, and in 15 *H.* 6, Sir John Tyrrell, in 1656, Jan, 27; 1658, Mar. 9; 1659, Jan. 13.

Sir Job Charlton ill, Seymour chosen, 1673, Feb. 18.

Seymour being ill, Sir Robert Sawyer chosen, 1678, April 15.

Sawyer being ill, Seymour chosen,

Not merely pro tempore. —1 *Chand.* 169, 276, 7.

Thorpe in execution, a new Speaker chosen—31 *H.* VI.—3 *Grey*, 11; and March 14, 1694, Sir John Trevor chosen. There have been no later instances.—2 *Hats.* 161.—4 *Inst.*—8 *Lex. Parl.* 263.

A Speaker may be removed at the will of the House, and a Speaker pro tempore appointed.—2 *Grey*, 186; 5 *Grey*, 134.

SECTION X.

ADDRESS.

The President shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.—*Const. U. S.* Art. II. Sec. 3.

A joint address from both Houses of Parliament is read by the Speaker of the House of Lords. It may be attended by both Houses in a body, or by a committee from each House, or by the two Speakers only. An address of the House of Commons only may be presented by the whole House, or by the Speaker,—9 *Grey*, 473; 1 *Chandler*, 298, 301; or by such particular members as are of the Privy Council.—2 *Hats.* 278.

SECTION XI.

COMMITTEES.

Standing committees, as of privileges and elections, &c., are usually appointed at the first meeting, to continue through the session. The person first named is generally permitted to act as chairman. But this is a matter of courtesy; every committee having a right to elect their own chairman, who presides over them, puts questions, and reports their proceedings to the House. —4 *Inst.* 11, 12; *Scob.* 7; 1 *Grey*, 112.

At these committees the members are to speak standing, and not sitting, though there is reason to conjecture it was formerly otherwise.—*D'Ewes*, 630, *col.* 1; 4 *Parl. Hist.* 440; 2 *Hats.* 77.

Their proceedings are not to be published, as they are of no force till confirmed by the House.—*Rushw. part* 3, *vol.* 2, 74; 3 *Grey*, 401; *Scob.* 39. Nor can they receive a petition but through the House.—9 *Grey*, 412.

When a committee is charged with an inquiry, if a member prove to be involved, they cannot proceed against him, but must

make a special report to the House; whereupon the member is heard in his place, or at the bar, or a special authority is given to the committee to inquire concerning him.—9 *Grey*, 523.

So soon as the House sits, and a committee is notified of it, the chairman is in duty bound to rise instantly, and the members to attend the service of the House.—2 *Nals.* 19.

It appears, that on joint committee of the Lords and Commons, each committee acted integrally in the following instances;—7 *Grey*, 261, 278, 286, 338; 1 *Chandler*, 357, 462. In the following instances it does not appear whether they did or not:—6 *Grey*, 129; 7 *Grey*, 213, 229, 321.

SECTION XII.

COMMITTEE OF THE WHOLE.

The speech, messages, and other matters of great concernment, are usually referred to a committee of the whole House —6 *Grey*, 311, were general principles are digested in the form of resolutions, which are debated and amended till they get into a shape which meets the approbation of a majority. These being reported and confirmed by the House, are then referred to one or more select committees, according as the subject divides itself into one or more bills.—*Scob.* 36, 44. Propositions for any charge on the people are especially to be first made in a committee of the whole.—3 *Hats.* 127. The sense of the whole is better taken in committee, because in all committees every one speaks as often as he pleases.—*Scob.* 49. They generally acquiesce in the chairman named by the Speaker; but, as well as all other committees, have a right to elect one, some member, by consent, putting the question.—*Scob.* 36; 3 *Grey*, 301. The form of going from the House into committee, is for the Speaker, on motion, to put the question that the House do now resolve itself into a committee of the whole, to take under consideration such a matter, naming it. If determined in the affirmative, he leaves the chair, and takes a seat elsewhere, as any other member; and the person appointed chairman seats himself at the

clerk's table.—*Scob.* 36. Their quorum is the same as that of the House; and if a defect happens, the chairman, on a motion and question, rises, the Speaker resumes the chair, and the chairman can make no other report than to inform the House of the cause of their dissolution. If a message is announced during a committee, the Speaker takes the chair, and receives it, because the committee cannot.—2 *Hats.* 125, 126.

In a committee of the whole, the tellers, on a division, differing as to numbers, great heats and confusion arose, and dangers of a decision by the sword. The Speaker took the chair, the mace was forcibly laid on the table; whereupon, the members retiring to their places, the Speaker told the House "he had taken the chair without an order, to bring the House into order." Some excepted against it; but it was generally approved as the only expedient to suppress the disorder. And every member was required, standing up in his place, to engage that he would proceed no further, in consequence of what had happened in the grand committee, which was done.—3 *Grey*, 139.

A committee of the whole being broken up in disorder, and the chair resumed by the Speaker without an order, the House was adjourned. The next day the committee was considered as thereby dissolved, and the subject again before the House; and it was decided in the House, without returning into committee. —3 *Grey*, 130.

No previous question can be put in a committee; nor can this committee adjourn as others may; but if their business is unfinished, they rise on a question, the House is resumed, and the chairman reports that the committee of the whole have, according to order, had under their consideration such a matter, and have made progress therein; but not having time to go through the same, have directed him to ask leave to sit again. Whereupon, a question is put on their having leave, and on the time when the House will again resolve itself into a committee.—*Scob.* 38. But if they have gone through the matter referred to them, a member moves that the committee may rise, and the chairman report their proceedings to the House; which being resolved, the chairman rises, the Speaker resumes the chair, the

chairman informs him that the committee have gone through the business referred to them, and that he is ready to make report when the House shall think proper to receive it. If the House have time to receive it, there is usually a cry of "Now, Now," whereupon he makes the report; but if it be late, the cry is, "To-morrow, To-morrow," or, "On Monday," &c., or a motion is made to that effect, and a question put, that it be received to-morrow, &c.—*Scob.* 38.

In other things the rules of proceedings are to be the same as in the House.—*Scob.* 39.

SECTION XIII.

EXAMINATION OF WITNESSES.

Common fame is a good ground for the House to proceed by inquiry, and even to accusation.—*Resolution of the House of Commons*, 1 *Car.* 1, 1625; *Rush. Lex. Parl.* 115; 1 *Grey*, 16. 22. 92; 8 *Grey*, 21. 23. 27. 45.

Witnesses are not to be produced but where the House has previously instituted an inquiry, 2 *Hats.* 102, nor then are orders for their attendance given blank.—3 *Grey*, 51. The process is a summons from the House.—4 *Hats.* 255. 258.

When any person is examined before a committee, or at the bar of the House, any member wishing to ask the person a question, must address it to the Speaker or chairman, who repeats the question to the person, or says to him, "You hear the question, answer it." But if the propriety of the question be objected to, the Speaker directs the witness, counsel, and parties to withdraw; for no question can be moved, or put, or debated, while they are there.—2 *Hats.* 108. Sometimes the questions are previously settled in writing before the witness enters.—2 *Hats.* 106, 107; 8 *Grey*, 64. The questions asked must be entered in the journals.—3 *Grey*, 81. But the testimony given in answer before the House is never written down; but before a committee it must be for the information of the House, who are not present to hear it.—7 *Grey*, 52, 334.

If either House have occasion for the presence of a person in custody of the other, they ask the other their leave that he may be brought up to them in custody.—3 *Hats.* 52.

A member, in his place, gives information to the House of what he knows of any matter under hearing at the bar.—*Jour. H. of C.*, Jan. 22, 1744, 5.

Either House may request, but not command, the attendance of a member of the other. They are to make the request by message to the other House, and to express clearly the purpose of attendance, that no improper subject of examination may be tendered to him. The House then gives leave to the member to attend, if he choose it; waiting first to know from the member himself whether he chooses to attend, till which they do not take the message into consideration. But when the Peers are sitting as a court of Criminal Judicature, they may order attendance; unless where it be a case of impeachment by the Commons. There it is to be a request.—3 *Hats.* 17; 9 *Grey*, 306. 406; 10 *Grey*, 133.

Counsel are to be heard only on private, not on public bills; and on such points of law only as the House shall direct.—19 *Grey*, 61.

SECTION XIV.

ARRANGEMENT OF BUSINESS.

The Speaker is not precisely bound to any rules as to what bills or other matter shall be first taken up, but is left to his own discretion, unless the House on a question decide to take up a particular subject.—*Hakew.* 136.

A settled order of business is, however, necessary for the government of the presiding person, and to restrain individual members from calling up favorite measures, or matters under their special patronage, out of their just turn. It is useful also for directing the discretion of the House, when they are moved to take up a particular matter, to the prejudice of others having a priority of right to their attention in the general order of business.

In Senate, the bills and other papers which are in possession of the House, and in a state to be acted upon, are arranged every morning, and brought on in the following order:

1. Bills ready for a second reading are read, that they may be referred to committees, and so be put under way. But if, on their being read, no motion is made for commitment, they are then laid on the table in the general file, to be taken up in their just turn.

2. After twelve o'clock, bills ready for it are put on their passage.

3. Reports in possession of the House which offer grounds for a bill, are to be taken up, that the bill may be ordered in.

4. Bills or other matters before the House, and unfinished on the preceding day, whether taken up in turn, or on special order, are entitled to be resumed and passed on through their present stage.

5. These matters being despatched, for preparing and expediting business, the general file of bills and other papers is then taken up, and each article of it is brought on according to its seniority, reckoned by the date of its first introduction to the House. Reports on bills belong to the dates of their bills.

In this way we do not waste our time in debating what shall be taken up: we do one thing at a time, follow up a subject while it is fresh, and till it is done with; clear the House of business, gradatim as it is brought on, and prevent, to a certain degree, its immense accumulation towards the close of the session.

Arrangement, however, can only take hold of matters in possession of the House. New matter may be moved at any time, when no question is before the House. Such are original motions, and reports on bills. Such are, bills from the other House, which are received at all times, and receive their first reading as soon as the question then before the House is disposed of; and bills brought in on leave, which are read first whenever presented. So, messages from the other House respecting amendments to bills, are taken up as soon as the House is clear of a question, unless they require to be printed for better consideration. Orders of the day may be called for, even when another question is before the House.

SECTION XV.

ORDER.

Each House may determine the rules of its proceedings; punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.—*Const.* I. 5.

In Parliament, "instances make order," *per Speaker Onslow*, 2 *Hats.* 144; but what is done only by one Parliament, cannot be called custom of Parliament: *by Prynne*, 1 *Grey*, 52.

SECTION XVI.

ORDER RESPECTING PAPERS.

The Clerk is to let no journals, records, accounts, or papers, be taken from the table, or out of his custody.—2 *Hats.* 193, 194.

Mr. Prynne having, at a committee of the whole, amended a mistake in a bill, without order or knowledge of the committee, was reprimanded. 1 *Chand.* 77.

A bill being missing, the House resolved, that a protestation should be made and subscribed by the members, "before Almighty God and this honorable House, that neither myself nor any other, to my knowledge, have taken away, or do at this present conceal a bill entitled," &c.—5 *Grey*, 202.

After a bill is engrossed, it is put into the Speaker's hands, and he is not to let any one have it to look into.—*Town. col.* 209.

SECTION XVII.

ORDER IN DEBATE.

When the Speaker is seated in his chair, every member is to sit in his place.—*Scob.* 6; *Grey*, 403.

When any member means to speak, he is to stand up in his place, uncovered, and to address himself, not to the House, or any particular member, but to the Speaker, who calls him by his name, that the House may take notice who it is that speaks.—*Scob.* 6; *D'Ewes*, 487, *col.* 1; 2 *Hats.* 77; 4 *Grey*, 66; 8 *Grey*, 108. But members who are indisposed may be indulged to speak sitting.—3 *Hats.* 75, 77; 1 *Grey*, 195.

In Senate, every member, when he speaks, shall address the chair, standing in his place; and when he has finished, shall sit down.—*Rule* 3.

When a member stands up to speak, no question is to be put; but he is to be heard, unless the House overrule him.—4 *Grey*, 390; 5 *Grey*, 6, 143.

If two or more rise to speak nearly together, the Speaker determines who was first up, and calls him by name; whereupon he proceeds, unless he voluntarily sits down, and gives way to the other. But sometimes the House does not acquiesce in the Speaker's decision; in which case, the question is put, "which member was first up?"—2 *Hats.* 76; *Scob.* 7; *D'Ewes*, 434, *col.* 1, 2.

In the Senate of the United States, the President's decision is without appeal. Their rule is in these words:—*When two members rise at the same time, the President shall name the person to speak; but in all cases*, the member who shall first rise and address the chair, shall speak first.—*Rule* 5.

No man can speak more than once to the same bill, on the same day; or even on another day, if the debate be adjourned. But if it be read more than once, in the same day, he may speak once at every reading.—*Co.* 12, 116; *Hakew.* 148; *Scob.* 58; 2 *Hats.* 75. Even a change of opinion does not give a right to be heard a second time.—*Smyth. Comw. L.* 2. *c.* 3; *Arcan. Parl.* 17.

The corresponding rule of the Senate is in these words:—No member shall speak more than twice in any one debate on the same day, without leave of the Senate. —*Rule* 4.

But he may be permitted to speak again to clear a matter of fact.—3 *Grey*, 357,416. Or merely to explain himself, 3 *Hats.* 73, in some material part of his speech, *ib.* 75; or to the manner or words of the question, keeping himself to that only, and not travelling into the merrits of it, *Memorials in Hakew.* 29; or to the orders of the House, if they be transgressed, keeping within that line, and falling into the matter itself.—*Mem. Hakew*, 30, 31.

But if the Speaker rises to speak, the member standing up ought to sit down, that he may be first heard. *Town. col.* 205; *Hale. Parl.* 133; *Mem. in Hakew.* 30, 31. Nevertheless, though the Speaker may of right speak to matters of order, and be first heard, he is restrained from speaking on any other subject, except where the House have occasion for facts within his knowledge: then he may, with their leave, state the matter of fact.—3 *Grey*, 28.

No one is to speak impertinently or beside the question, super-

fluously or tediously.—*Scob.* 31, 33; 2 *Hats.* 166, 168; *Hale Parl.* 133.

No person is to use indecent language against the proceedings of the House, no prior determination of which is to be reflected on by any member unless he means to conclude with a motion to rescind it.—2 *Hats.* 169, 170; *Rushw.* p. 3. v. 1. fol. 42. But while a proposition is under consideration, is still in fieri, though it has even been reported by a committee, reflections on it are no reflections on the House.—9 *Grey*, 308.

No person in speaking, is to mention a member then present by his name; but to describe him by his seat in the House, or who spoke last or on the other side of the question, &c. *Mem. in Hawk.*—3 *Smyth's Comw, L.* 2. *c.* 3; nor to digress from the matter to fall upon the person.—*Scob.* 31; *Hale, Parl.* 133; 2 *Hats.* 166, by speaking, reviling, nipping, or unmannerly words against a particular member. *Smyth's Comw. L.* 2. *c.* 3. The consequence of a measure may be reprobated in strong terms; but to arraign the motives of those who propose or advocate it, is a personality, and against order. Qui digreditur a materia ad personam, Mr. Speaker ought to suppress.—*Ord. Com.* 1604, Apr. 19.

When a member shall be called to order he shall sit down, until the President shall have determined whether he is in order or not.—*Rule* 16.

No member shall speak to another, or otherwise interrupt the business of the Senate, or read any printed paper while the Journals or public papers are reading, or when any member is speaking in any debate.—*Rule* 2.

No one is to disturb another in his speech, by hissing, coughing, spitting,—6 *Grey*, 332; *Scob.* 8; *D'Ewes*, 332, *col.* 1; nor stand up to interrupt him,—*Town. col.* 205; *Mem. in Hakew.* 31; nor to pass between the Speaker and the speaking member; nor to go across the House,—*Scob.* 6; or to walk up and down it; or to take books or papers from the table, or write there.—2 *Hats.* 171.

Nevertheless, if a member finds it is not the inclination of the House to hear him, and that, by conversation or any other noise, they endeavor to drown his voice, it is the most prudent way to submit to the pleasure of the House, and sit down; for it scarcely

ever happens that they are guilty of this piece of ill manners without sufficient reason, or inattentive to a member who says any thing worth their hearing.—2 *Hats.* 77, 78.

If repeated calls do not produce order, the Speaker may call by his name any member obstinately persisting in irregularity; whereupon the House may require the member to withdraw. He is then to be heard in exculpation and to withdraw. Then the Speaker states the offence committed, and the House considers the degree of punishment they will inflict.—2 *Hats.* 169, 7, 8, 172.

For instances of assaults and affrays in the House of Commons, and the proceedings thereon, see 1 *Pet. Misc.* 82; 3 *Grey*, 128; 4 *Grey*, 328; 5 *Grey*, 38; 26 *Grey*, 204; 10 *Grey*, 8. Whenever warm words or an assault have passed between the members, the House, for the protection of their members, requires them to declare in their place not to prosecute any quarrel,—3 *Grey*, 128, 293; 5 *Grey*, 289; or orders them to attend the Speaker, who is to accommodate their differences, and to report to the House,—3 *Grey*, 419; and they are put under restraint, if they refuse, or until they do.—9 *Grey*, 234, 312.

Disorderly words are not to be noticed till the member has finished his speech.—5 *Grey*, 356; 6 *Grey*, 60. Then the person objecting to them, and desiring them to be taken down by the clerk at the table, must repeat them. The Speaker then may direct the clerk to take them down in his minutes. But if he thinks them not disorderly, he delays the direction. If the call becomes pretty general, he orders the clerk to take them down, as stated by the objecting member. They are then part of his minutes, and when read to the offending member, he may deny they were his words, and the House must then decide by a question, whether they are his words or not. Then the member may justify them, or explain the sense in which he used them, or apologize. If the House is satisfied, no further proceeding is necessary. But if two members still insist to take the sense of the House, the member must withdraw before that question is stated, and then the sense of the House is to be taken.—2 *Hats.* 199, 4 *Grey*, 170; 6 *Grey*, 59. When any member has spoken, or other business intervened, after offensive words spoken, they

cannot be taken notice of for censure. And this is for the common security of all, and to prevent mistakes, which must happen, if words are not taken down immediately. Formerly, they might be taken down at any time the same day.—2 *Hats.* 196; *Mem. in Hakew.* 71; 3 *Grey*, 48; 9 *Grey*, 514.

Disorderly words spoken in a committee, must be written down as in the House; but the committee can only report them to the House for animadversion.—6 *Grey*, 46.

The rule of the Senate says,—If a member be called to order for words spoken, the exceptionable words shall be immediately taken down in writing, that the President may be better enabled to judge.—*Rule* 17.

In Parliament, to speak irreverently or seditiously against the King, is against order.—*Smyth's Comw. L.* 2, *c.* 3; 2 *Hats.* 170.

It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses.—8 *Grey*, 22.

Neither House can exercise any authority over a member or officer of the other, but should complain to the House of which he is, and leave the punishment to them. Where the complaint is of words disrespectfully spoken by a member of another House, it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of members. Therefore it is the duty of the House, and more particularly of the Speaker, to interfere immediately, and not to permit expressions to go unnoticed, which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses, which can hardly be terminated without difficulty and disorder.—3 *Hats.* 51.

No member may be present when a bill, or any business concerning himself, is debating; nor is any member to speak to the merits of it till he withdraws.—2 *Hats.* 219. The rule is, that

if a charge against a member arise out of a report of a committee, or examination of witnesses in the House, as the member knows from that to what points he is to direct his exculpation, he may be heard to those points before any question is moved or stated against them. He is then to be heard, and withdraw before any question is moved. But if the question itself is the charge, as for breach of order, or matter arising in debate, there the matter must be stated, that is, the question must be moved, himself heard, and then to withdraw.—2 *Hats.* 121, 122.

Where the private interests of a member are concerned in a bill or question, he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary not only to the laws of decency, but to the fundamental principles of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule of immemorial observance should be strictly adhered to.—2 *Hats.* 119, 121; 6 *Grey*, 368.

No member is to come into the House with his head covered nor to remove from one place to the other with his hat on, nor is to put on his hat in coming in, or removing, until he be sit down in his place.—*Scob.* 6.

A question of order may be adjourned to give time to look into precedents.—2 *Hats.* 118.

In the Senate of the United States, every question of order is to be decided by the President, without debate; but if there be a doubt in his mind, he may call for the sense of the Senate.—*Rule* 16.

In Parliament, all decisions of the Speaker may be controlled by the House.—3 *Grey*, 319.

SECTION XVIII.

ORDERS OF THE HOUSE.

Of right, the door of the House ought not to be shut, but to be kept by porters, or sergeants-at-arms, assigned for that purpose.—*Mod. ten. Parl.* 23.

By the rule of the Senate, on motion made and seconded to shut the doors of the Senate, on the discussion of any business which may in the opinion of a member, require secrecy, the President shall direct the gallery to be cleared; and during the discussion of such motion the door shall remain shut.—*Rule* 28.

No motion shall be deemed in order, to admit any person or persons whatever within the doors of the Senate-chamber, to present any petition, memorial, or address, or to hear any such read.—*Rule* 29.

The only case where a member has a right to insist on anything, is where he calls for the execution of a subsisting order of the House. Here, there having been already a resolution, any member has a right to insist that the Speaker, or any other whose duty it is, shall carry it into execution; and no debate or delay can be had on it. Thus any member has a right to have the House or gallery cleared of strangers, an order existing for that purpose; or to have the House told when there is not a quorum present.—2 *Hats.* 87, 129. How far an order of the House is binding, see *Hakew.* 392.

But where an order is made that any particular matter be taken up on a particular day, there a question is to be put when it is called for, Whether the House will now proceed to that matter? Where orders of the day are on important or interesting matter, they ought not to be proceeded on till an hour at which the House is usually full—(*which in Senate is at noon.*)

Orders of the day may be discharged at any time, and a new one made for a different day.—3 *Grey*, 48, 313.

When a session is drawing to a close, and the important bills are all brought in, the House, in order to prevent interruption by further unimportant bills, sometimes come to a resolution, that no new bill be brought in, except it be sent from the other House.—3 *Grey*, 156.

All orders of the House determine with the session; and one taken under such an order may, after the session is ended, be discharged on a Habeas Corpus.—*Raym.* 120; *Jacob's L. D. by Ruffhead; Parliament*, 1 *Lev.* 165, *Prichard's case.*

Where the Constitution authorizes each House to determine the rule of its proceedings, it must mean in those cases, legislative, executive, or judiciary, submitted to them by the Constitution, or in something relating to these, and neces-

sary towards their execution. But orders and resolutions are sometimes entered in their journals, having no relation to these, such as acceptances of invitations to attend orations, to take part in processions, &c. These must be understood to be merely conventional among those who are willing to participate in the ceremony, and are therefore, perhaps, improperly placed among the records of the House.

SECTION XIX.

PETITIONS.

A PETITION prays something. A remonstrance has no prayer. —1 *Grey*, 58.

Petitions must be subscribed by the petitioners, *Scob.* 87; *L. Parl. c.* 22; 9 *Grey*, 362, unless they are attending, 1 *Grey*, 401, or unable to sign, and averred by a member.—3 *Grey*, 418. But a petition not subscribed, but which the member presenting it affirmed to be all in the handwriting of the petitioner, and his name written in the beginning, was, on the question, (March 14, 1800,) received by the Senate. The averment of a member, or somebody without doors, that they know the handwriting of the petitioners, is necessary, if it be questioned.—6 *Grey*, 36. It must be presented by a member, not by the petitioners, and must be opened by him, holding it in his hand.—10 *Grey*, 57.

Before any petition or memorial, addressed to the Senate, shall be received and read at the table, whether the same shall be introduced by the President or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.—*Rule* 21.

Regularly a motion for receiving it must be made and seconded, and a question put, Whether it shall be received? But a cry from the House of "Received," or even its silence, dispenses with the formality of this question: it is then to be read at the table, and disposed of.

SECTION XX.

MOTIONS.

WHEN a motion has been made, it is not to be put to the question, or debated, until it is seconded.—*Scob.* 21.

The Senate say, No motion shall be debated until the same shall be seconded. —*Rule* 6.

It is then, and not till then, in possession of the House. It is to be put into writing, if the House or Speaker require it, and must be read to the House by the Speaker, as often as any member desires it for his information.—2 *Hats.* 82.

The rule of the Senate is, When a motion shall be made and seconded, it shall be reduced to writing, if desired by the President or any member, delivered in at the table, and read by the President before the same shall be debated.—*Rule* 7.

It might be asked, whether a motion for adjournment, or for the orders of the day, can be made by one member while another is speaking? It cannot. When two members offer to speak, he who rose first is to be heard, and it is a breach of order in another to interrupt him, unless by calling him to order if he departs from it. And the question of order being decided, he is still to be heard through. A call for adjournment, or for the order of the day, or for the question, by gentlemen from their seats, is not a motion. No motion can be made without arising and addressing the chair. Such calls are themselves breaches of order, which, though the member who has risen may respect as an expression of impatience of the House against farther debate, yet, if he chooses, he has a right to go on.

SECTION XXI.

RESOLUTIONS.

When the House commands, it is by an "order." But facts, principles, their own opinions and purposes, are expressed in the form of resolutions.

A resolution for an allowance of money to the clerks being moved, it was objected to as not in order, and so ruled by the chair. But on appeal to the Senate, (i. e., a call for their sense by the President, on account of doubt in his mind, according to Rule 16,) the decision was overruled.—*Journ. Sen.*, June 1, 1796. I presume the doubt was, whether an allowance of money could be made otherwise than by bill.

SECTION XXII.

BILLS.

Every bill shall receive three readings previous to its being passed; and the President shall give notice at each, whether it be the first, second, or third; which readings shall be on three different days, unless the Senate unanimously direct otherwise, or unless by a joint vote of both Houses, or the expiration of their term, the session is to be closed within three days.—*Rule* 13.

SECTION XXIII.

BILLS, LEAVE TO BRING IN.

One day's notice, at least, shall be given of an intended motion for leave to bring in a bill.—*Rule* 12.

When a member desires to bring a bill on any subject, he states to the House, in general terms, the causes for doing it, and concludes by moving for leave to bring in a bill, entitled, &c. Leave being given, on the question, a committee is appointed to prepare and bring in the bill. The mover and seconder are always appointed on this committee, and one or more in addition.—*Hakew.* 132; *Scob.* 40.

It is to be presented fairly written, without any erasure or interlineation; or the Speaker may refuse it.—*Scob.* 31; 1 *Grey*, 82, 84.

SECTION XXIV.

BILLS, FIRST READING.

When a bill is first presented, the clerk reads it at the table, and hands it to the Speaker, who, rising, states to the House the title of the bill; that this is the first time of reading it: and the question will be, Whether it shall be read a second time? Then, sitting down, to give an opening for objections; if none be made, he rises again, and puts the question, Whether it shall be read a second time?—*Hakew.* 137, 141. A bill cannot be

amended at the first reading,—6 *Grey*, 286; nor is it usual for it to be opposed then, but it may be done and rejected.—*D'Ewes*. 335, *col.* 1; 3 *Hats.* 198.

SECTION XXV.

BILLS, SECOND READING.

The second reading must regularly be on another day.—*Hakew.* 143. It is done by the clerk at the table, who then hands it to the Speaker. The Speaker, rising, states to the House the title of the bill, that this is the second time of reading it, and that the question will be, Whether it shall be committed, or engrossed and read a third time? But if the bill came from the other House, as it always comes engrossed, he states that the question will be, Whether it shall be read a third time? And before he has so reported the state of the bill, no one is to speak to it.—*Hakew.* 143, 146.

In the Senate of the United States, the President reports the title of the bill, that this is the second time of reading it, that it is now to be considered as in a committee of the whole, and the question will be, Whether it shall be read a third time? or, that it may be referred to a special committee.

SECTION XXVI.

BILLS, COMMITMENT.

If, on motion and question, it be decided that the bill shall be committed, it may then be moved to be referred to a committee of the whole House, or to a special committee. If the latter, the Speaker proceeds to name the committee. Any member also may name a single person, and the clerk is to write him down as of the committee. But the House have a controlling power over the names and number, if a question be moved against any one; and may in any case put in and put out whom they please.

Those who take exceptions to some particulars in the bill, are to be of the committee. But none who speak directly against

the body of the bill. For he that would totally destroy, would not amend it.—*Hakew.* 146; *Town. col.* 208; *D'Ewes*, 634, *col.* 2; *Scob.* 47; or, as is said, 5 *Grey*, 145, the child is not to be put to a nurse that cares not for it.—6 *Grey*, 373. It is therefore a constant rule, "that no man is to be employed in any matter who has declared himself against it." And when any member who is against the bill, hears himself named of its committee, he ought to ask to be excused. Thus, March 6, 1606, Mr. Hadley was, on the question being put, excused from being of a committee, declaring himself to be against the matter itself.—*Scob.* 48.

No bill shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.—*Rule* 14.

All committees shall be appointed by ballot, and a plurality of voices shall make a choice.—*Rule* 15.

The clerk may deliver the bill to any member of the committee.—*Town. col.* 138. But it is usual to deliver it to him who is first named.

In some cases, the House has ordered the committee to withdraw immediately into the committee-chamber, and act on and bring back the bill, sitting the House.—*Scob.* 48.

A committee meets when and where they please, if the House has not ordered time and place for them.—6 *Grey*, 370. But they can only act when together, and not by separate consultation and consent; nothing being the report of the committee, but what has been agreed to in committee, actually assembled.

A majority of the committee constitutes a quorum for business.—*Elsynge's method of passing bills*, 11.

Any member of the House may be present at any select committee, but cannot vote, and must give place to all of the committee, and must sit below them.—*Elsynge*, 12; *Scob.* 49.

But in 1626, April 24th, the House of Commons resolved that though any members may be present at the examination of witnesses, they may not be at the debate, disposition, or penning of the business by the select committee.—4 *Hats.* 124.

The committee have full power over the bill, or other paper

committed to them, except that they cannot change the title or subject.—8 *Grey*, 228.

The paper before a committee, whether select or of the whole, may be a bill, resolutions, draught of an address, &c., and it may either originate with them, or be referred to them. In every case, the whole paper is read first by the clerk, and then by the chairman, by paragraphs, *Scob.* 49, pausing at the end of each paragraph, and putting questions, for amending, if proposed. In the case of resolutions on distinct subjects, originating with themselves, a question is put on each separately, as amended, or unamended, and no final question on the whole.—3 *Hats.* 276. But if they relate to the same subject, a question is put on the whole. If it be a bill, draught of an address, or other paper originating with them, they proceed by paragraphs, putting questions for amending, either by inserting or striking out, if proposed; but no question on agreeing to the paragraphs separately. This is reserved to the close, when a question is put on the whole for agreeing to it as amended or unamended. But if it be a paper referred to them, they proceed to put questions of amendment, if proposed, but no final question on the whole; because all parts of the paper having been adopted by the House, stand, of course, unless altered, or struck out by a vote. Even if they are opposed to the whole paper, and think it cannot be made good by amendments, they cannot reject it, but must report it back to the House without amendments, and there make their opposition.

The natural order in considering and amending any paper is, to begin at the beginning, and proceed through it by paragraphs; and this order is so strictly adhered to in Parliament, that, when a latter part has been amended, you cannot recur back and make any alteration in a former part.—2 *Hats.* 90. In numerous assemblies, this restraint is, doubtless, important.

But in the Senate of the United States, though in the main we consider and amend the paragraphs in their natural order, yet recurrences are indulged; and they seem, on the whole, in that small body, to produce advantages overweighing their inconveniences.

To this natural order of beginning at the beginning, there is

a single exception found in Parliamentary usage. When a bill is taken up in committee, or on its second reading, they postpone the preamble, till the other parts of the bill are gone through. The reason is, that on consideration of the body of the bill, such alterations may therein be made, as may also occasion the alteration of the preamble.—*Scob.* 50; 7 *Grey*, 431.

On this head, the following case occurred in the Senate, March 6, 1800. A resolution which had no preamble, having been already amended by the House, so that a few words only of the original remained in it, a motion was made to prefix a preamble, which, having an aspect very different from the resolution, the mover intimated that he should afterwards propose a correspondent amendment in the body of the resolution. It was objected that a preamble could not be taken up till the body of the resolution is done with. But the preamble was received; because we are in fact through the body of the resolution, we have amended that as far as amendments have been offered, and indeed till little of the original is left. It is the proper time, therefore, to consider a preamble; and whether the one offered be consistent with the resolution, is for the House to determine. The mover, indeed, has intimated that he shall offer a subsequent proposition for the body of the resolution; but the House is not in possession of it; it remains in his breast, and may be withheld. The rules of the House can only operate on what is before them. The practice of the Senate, too, allows recurrences backwards and forwards for the purpose of amendments, not permitting amendments in a subsequent, to preclude those in a prior part, or *a converso.*

When the committee is through the whole, a member moves that the committee may rise, and the chairman report the paper to the House, with or without amendments, as the case may be. 2 *Hats.* 289, 292; *Scob.* 53; 2 *Hats.* 290; 8 *Scob.* 50.

When a vote is once passed in a committee, it cannot be altered but by the House, their votes being binding on themselves.—1607, June 4.

The committee may not erase, interline, or blot the bill itself; but must, in a paper by itself, set down the amendments, stating

the words that are to be inserted or omitted, *Scob.* 50; and where, by reference to the page, line, and word of the bill.—*Scob.* 50.

SECTION XXVII.

REPORT OF COMMITTEE.

The chairman of the committee, standing in his place, informs the House that the committee, to whom was referred such a bill, have, according to order, had the same under consideration, and have directed him to report the same without any amendment, or with sundry amendments, (as the case may be,) which he is ready to do when the House pleases to receive it. And he, or any other, may move that it be now received. But the cry of "now, now," from the House, generally dispenses with the formality of a motion and question. He then reads the amendments, with the coherence in the bill, and opens the alterations, and the reasons of the committee for such amendment, until he has gone through the whole. He then delivers it at the clerk's table, where the amendments reported are read by the clerk, without the coherence; whereupon the papers lie upon the table, till the House, at his convenience, shall take up the report.—*Scob.* 52; *Hakew.* 148.

The report being made, the committee is dissolved, and can act no more without a new power.—*Scob.* 51. But it may be revived by a vote, and the same matter recommitted to them.—4 *Grey,* 361.

SECTION XXVIII.

BILL, RECOMMITMENT.

After a bill has been committed and reported, it ought not, in an ordinary course, to be recommitted. But in cases of importance, and for special reasons, it is sometimes recommitted, and usually to the same committee. *Hakew.* 151. If a report be committed before agreed to in the House, what has passed in the committee is of no validity; the whole question is again

before the committee, and a new resolution must be again moved, as if nothing had passed.—3 *Hats.* 131, note.

In Senate, January, 1800, the salvage bill was recommitted three times after the commitment.

A particular clause of a bill may be committed without the whole bill,—3 *Hats.* 131; or so much of a paper to one, and so much to another committee.

SECTION XXIX.

BILL, REPORT TAKEN UP.

When the report of a paper, originating with a committee, is taken up by the House, they proceed exactly as in committee. Here, as in committee, when the paragraphs have, on distinct questions, been agreed to *seriatim*,—5 *Grey*, 365; 6 *Grey*, 368; 8 *Grey*, 47, 104, 360; 1 *Torbuck's deb.* 124; 3 *Hats.* 348,—no question need be put on the whole report.—5 *Grey*, 381.

On taking up a bill reported with amendments, the amendments only are read by the clerk. The Speaker then reads the first, and puts it to the question, and so on till the whole are adopted or rejected, before any other amendment be admitted, except it be an amendment to an amendment.—*Elsynge's Mem.* 23. When through the amendments of the committee, the Speaker pauses, and gives time for amendments to be proposed in the House to the body of the bill; as he does also if it has been reported without amendments; putting no question but on amendments proposed; and when through the whole, he puts the question, Whether the bill shall be read the third time?

SECTION XXX.

QUASI-COMMITTEE.

If, on the motion and question, the bill be not committed, or if no proposition for commitment be made, then the proceedings

in the Senate of United States and in Parliament are totally different. The former shall be first stated.

The 20th rule of the Senate says, "All bills, on a second reading, shall first be considered by the Senate in the same manner as if the Senate were in a committee of the whole, before they shall be taken up and proceeded on by the Senate agreeably to the standing rules, unless otherwise ordered;" that is to say, unless ordered to be referred to a special committee.

The proceeding of the Senate, as in committee of the whole, or in quasi-committee, are precisely as in a real committee of the whole, taking no questions but on amendments. When through the whole, they consider the quasi-committee as risen, the House resumed, without any motion, question, or resolution to that effect, and the President reports, that "the House, acting as in committee of the whole, have had under consideration the bill entitled, &c., and have made sundry amendments, which he will now report to the House." The bill is then before them, as it would have been if reported from a committee, and questions are regularly to be put again on every amendment: which being gone through, the President pauses to give time to the House to propose amendments to the body of the bill, and when through, puts the question, whether it shall be read a third time?

After progress in amending a bill in quasi-committee, a motion may be made to refer it to a special committee. If the motion prevails, it is equivalent in effect to the several votes that the committee rise, the House resume itself, discharge the committee of the whole, and refer the bill to a special committee. In that case, the amendments already made fall. But if the motion fails, the quasi-committee stands in *statu quo*.

How far does this 20th rule subject the House, when in quasi-committee, to the laws which regulate the proceedings of a committee of the whole? The particulars, in which these differ from proceedings in the House, are the following:—1. In a committee, every member may speak as often as he pleases.—2. The votes of a committee may be rejected or altered when reported to the House.—3. A committee, even of the whole, cannot refer any matter to another committee.—4. In a committee, no previous question can be taken: the only means to avoid an improper discussion, is to move that the committee rise; and if it be apprehended that the same discussion will be attempted on returning into committee, the House can discharge them, and proceed itself on the business, keeping down the improper discussion by the previous question.—5. A committee cannot punish a breach of order, in the House, or in the gallery,—9 *Grey*, 113; it can only rise and report it to the House, who may proceed to punish.

The 1st and 2d of these peculiarities attach to the quasi-committee of the Senate, as every day's practice proves; and seem to be the only ones to which the 20th rule meant to subject them: for it continues to be a House, and therefore, though it acts in some respects as a committee, in others it preserves its character as a House.—Thus, 3d, It is in the daily habit of referring its business to a special committee—4th. It admits the previous question: if it did not, it would have no means of preventing an improper discussion; not being able, as the committee is, to avoid it by returning into the House: for the moment it would resume the same subject there, the 20th rule declares it again a quasi-committee.—5th. It would doubtless exercise its powers as a House on any breach of order.—6th. It takes a question by Yea and Nay, as the House does.—7th. It receives messages from the President and the other House.—8th. In the midst of a debate, it receives a motion to adjourn, and adjourns as a House, not as a committee.

SECTION XXXI.

BILL, SECOND READING IN THE HOUSE.

In Parliament, after the bill has been read a second time, if, on the motion and question, it be not committed, or if no proposition for commitment be made, the Speaker reads it by paragraphs, pausing between each, but putting no questions but on amendments proposed; and when through the whole, he puts the question, Whether it shall be read the third time? if it came from the other House. Or, if originating with themselves, Whether it shall be engrossed and read a third time? The Speaker reads sitting, but rises to put a question. The clerk stands while he reads.

But the Senate of the United States is so much in the habit of making many and material amendments at the third reading, that it has become the practice not to engross a bill till it has passed. An irregular and dangerous practice; because, in this way, the paper which passes the Senate is not that which goes to the other House; and that which goes to the other House as the act of the Senate, has never been seen in Senate. In reducing numerous, difficult, and illegible amendments into the text, the secretary may, with the most innocent intentions, commit errors which can never again be corrected.

The bill being now as perfect as its friends can make it, this is the proper stage for those, fundamentally opposed, to make their last attack. All attempts at other periods are with disadvantage; because many who do not expect to be in favor

of the bill, ultimately, are willing to let it go on to its perfect state, to take time to examine it themselves, and to hear what can be said for it; knowing that, after all, they have sufficient opportunities of giving it their veto. Its two last stages, therefore, are reserved for this, that is to say, on the question, Whether it shall be engrossed and read a third time? and, lastly, Whether it shall pass? The first of these is usually the most interesting contest; because then the whole subject is new and engaging, and the minds of the members having not yet been declared by any trying vote, the issue is the more doubtful. In this stage, therefore, is the main trial of strength between its friends and opponents; and it behooves every one to make up his mind decisively for this question, or he loses the main battle; and accident and management may, and often do, prevent a successful rallying on the next and last question, Whether it shall pass?

When the bill is engrossed, the title is to be endorsed on the back, and not within the bill.—*Hakew.* 250.

SECTION XXXII.

READING PAPERS.

Where papers are laid before the House, or referred to a committee, every member has a right to have them once read at the table, before he can be compelled to vote on them. But it is a great, though common error, to suppose that he has a right, *toties quoties*, to have acts, journals, accounts, or papers, on the table, read independently of the will of the House. The delay and interruption which this might be made to produce, evince the impossibility of the existence of such a right. There is indeed so manifest a propriety of permitting every member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is really for information, and not for delay, the Speaker directs it to be read without putting a question, if no one objects. But if objected to, a question must be put.—2 *Hats.* 117, 118.

It is equally an error to suppose, that any member has a right,

without a question put, to lay a book or paper on the table, and have it read, on suggesting that it contains matter infringing on the privileges of the House.—2 *Hats.* 117, 118.

For the same reason, a member has not a right to read a paper in his place, if it be objected to, without leave of the House. But this rigor is never exercised but where there is an intentional or gross abuse of the time and patience of the House.

A member has not a right even to read his own speech, committed to writing, without leave. This also is to prevent an abuse of time; and therefore is not refused, but where that is intended.—2 *Grey*, 227.

A report of a committee of the Senate on a bill from the House of Representatives being under consideration, on motion that the report of the committee of the House of Representatives on the same bill be read in the Senate, it passed in the negative.—Feb. 28, 1793.

Formerly, when papers were referred to a committee, they used to be first read; but of late, only the titles; unless a member insists they shall be read, and then nobody can oppose it.—2 *Hats.* 117.

SECTION XXXIII.

PRIVILEGED QUESTIONS.

While a question is before the Senate, no motion shall be received unless for an amendment, for the previous question, or for postponing the main question, or to commit it, or to adjourn.—Rule 8.

It is no possession of a bill, unless it be delivered to the clerk to be read, or the Speaker reads the title.—*Lex. Parl.* 274; *Elsynge, Mem.* 85; *Ord. House Commons*, 64.

It is a general rule, that the question first moved and seconded shall be first put.—*Scob.* 28, 22; 2 *Hats.* 81. But this rule gives way to what may be called privileged questions; and the privileged questions are of different grades among themselves.

A motion to adjourn, simply takes place of all others; for otherwise the House might be kept sitting against its will, and

indefinitely. Yet this motion cannot be received after another question is actually put, and while the House is engaged in voting.

Orders of the day take place of all other questions, except for adjournment. That is to say, the question which is the subject of an order, is made a privileged one, *pro hac vice*. The order is a repeal of the general rule as to this special case. When any member moves, therefore, for the orders of the day to be read, no further debate is permitted on the question which was before the House; for if the debate might proceed, it might continue through the day, and defeat the order. This motion, to entitle it to precedence, must be for the orders generally, and not for any particular one; and if it be carried on the question, "Whether the House will now proceed to the orders of the day?" they must be read and proceeded on in the course in which they stand.—2 *Hats.* 83. For priority of order gives priority of right, which cannot be taken away but by another special order.

After these there are other privileged questions, which will require considerable explanation.

It is proper that every Parliamentary assembly should have certain forms of questions, so adapted as to enable them fitly to dispose of every proposition which can be made to them. Such are, 1. The previous question: 2. To postpone indefinitely: 3. To adjourn to a definite day: 4. To lie on the table: 5. To commit: 6. To amend. The proper occasion for each of these questions should be understood.

1. When a proposition is moved, which it is useless or inexpedient now to express or discuss, the previous question has been introduced for suppressing, for that time, the motion and its discussion.—3 *Hats.* 188, 189.

2. But as the previous question gets rid of it only for that day, and the same proposition may recur the next day, if they wish to suppress it for the whole of that session, they postpone it indefinitely.—3 *Hats.* 183. This quashes the proposition for that session, as an indefinite adjournment is a dissolution, or the continuance of a suit sine die is a discontinuance of it.

3. When a motion is made which it will be proper to act on,

but information is wanted, or something more pressing claims the present time, the question or debate is adjourned to such a day within the session as will answer the views of the House. —2 *Hats.* 81. And those who have spoken before, may not speak again when the adjourned debate is resumed.—2 *Hats.* 73. Sometimes, however, this has been abusively used, by adjourning it to a day beyond the session, to get rid of it altogether, as would be done by an indefinite postponement.

4. When the House has something else which claims its present attention, but would be willing to reserve in their power to take up a proposition whenever it shall suit them, they order it to lie on their table. It may then be called for at any time.

5. If the proposition will want more amendment and digestion than the formalities of the House will conveniently admit, they refer it to a committee.

6. But if the proposition be well digested, and may need but few and simple amendments, and especially if these be of leading consequence, they then proceed to consider and amend it themselves.

The Senate, in their practice, vary from this regular gradation of forms. Their practice, comparatively with that of Parliament, stands thus:

For the Parliamentary,	The Senate uses,
Postmt. indefinite.	—Postmt. to a day beyond the session.
Adjournment,	—Postmt. to a day within the session.
Laying on the table.	{ Postponement indefinite. { Laying on the table.

In their 8th Rule, therefore, which declares, that while a question is before the Senate, no motion shall be received, unless it be for the previous question, or to postpone, commit or amend the main question, the term postponement must be understood according to their broad use of it, and not in its Parliamentary sense. Their rule then establishes as privileged questions, the previous question, postponement, commitment, and amendment.

But it may be asked, Have these questions any privilege among themselves? or are they so equal that the common principle of

the "first moved, first put," takes place among them? This will need explanation. Their competitions may be as follows:

1. Prev. Qu. and Postpone Commit Amend	In the 1st, 2d, and 3d classes, and the 1st member of the 4th class, the rule "first moved, first put," takes place.
2. Postpone and Prev. Qu. Commit Amend	
3. Commit and Prev. Qu. Postpone Amend	
4. Amend and Prev. Qu. Postpone Commit	

In the 1st class, where the previous question is first moved, the effect is peculiar; for it not only prevents the after motion to postpone or commit from being put to question before it, but also from being put after it. For if the previous question be decided affirmatively, to wit, that the main question shall *now* be put, it would of course be against the decision to postpone or commit. And if it be decided negatively, to wit, that the main question shall not now be put, this puts the House out of possession of the main question, and consequently there is nothing before them to postpone or commit. So that neither voting for nor against the previous question will enable the advocates for postponing or committing to get at their object. Whether it may be amended, shall be examined hereafter.

2d class.—If postponement be decided affirmatively, the proposition is removed from before the House, and consequently there is no ground for the previous question, commitment, or amendment. But if decided negatively, that it shall not be postponed, the main question may then be suppressed by the previous question, or may be committed or amended.

The 3d class is subject to the same observations as the 2d.

The 4th class.—Amendment of the main question first moved, and afterwards the previous question, the question of amendment shall be first put.

Amendment and postponement competing, postponement is first put, as the equivalent proposition to adjourn the main ques-

tion would be in Parliament. The reason is, that the question for amendment is not suppressed by postponing or adjourning the main question, but remains before the House whenever the main question is resumed; and it might be that the occasion for other urgent business might go by, and be lost by length of debate on the amendment, if the House had it not in their power to postpone the whole subject.

Amendment and commitment. The question for committing, though last moved, shall be first put; because in truth it facilitates and befriends the motion to amend. *Scobell* is express:—"On a motion to amend a bill, any one may, notwithstanding, move to commit it, and the question for commitment shall be first put."—*Scob.* 46.

We have hitherto considered the case of two or more of the privileged questions contending for privilege between themselves, when both were moved on the original or main question; but now let us suppose one of them to be moved, not on the original primary question, but on the secondary one, *e. g.*

Suppose a motion to postpone, commit, or amend the main question, and that it be moved to suppress that motion by putting the previous question on it. This is not allowed, because it would embarrass questions too much to allow them to be piled on one another several stories high: and the same result may be had in a more simple way, by deciding against the postponement, commitment, or amendment.—2 *Hats.* 81, 2, 3, 4.

Suppose a motion for the previous question, or commitment or amendment of the main question, and that it be then moved to postpone the motion for the previous question, or for commitment or amendment of the main question: 1. It would be absurd to postpone the previous question, commitment, or amendment, alone, and thus separate the appendage from its principal; yet it must be postponed separately from the original, if at all, because the 8th rule of the Senate says, that when a main question is before the House, no motion shall be received but to commit, amend, or pre-question the original question, which is the parliamentary doctrine; therefore, the motion to postpone the secondary motion for the previous question, or for committing or amending,

cannot be received: 2. This is a piling of questions one on another, which, to avoid embarrassment, is not allowed: 3. The same result may be had more simply, by voting against the previous question, commitment, or amendment.

Suppose a commitment moved, of a motion for the previous question, or to postpone, or amend.

The 1st, 2d, and 3d reasons before stated, all hold good against this.

Suppose an amendment moved to a motion for the previous question? Answer: The previous question cannot be amended. Parliamentary usage, as well as the 9th rule of the Senate, has fixed its form to be, "Shall the main question be now put?" *i. e.*, at this instant. And as the present instant is but one, it can admit of no modification. To change it to to-morrow, or any other moment, is without example and without utility. But suppose a motion to amend a motion for postponement, as to one day instead of another, or to a special instead of indefinite time. The useful character of amendment gives it a privilege of attaching itself to a secondary privileged motion. That is, we may amend a postponement of a main question. So we may amend a commitment of a main question, as by adding, for example, "with instruction to inquire," &c. In like manner, if an amendment be moved to an amendment, it is admitted. But it would not be admitted in another degree, to wit, to amend an amendment to an amendment of a main question. This would lead to too much embarrassment. The line must be drawn somewhere; and usage has drawn it after the amendment to the amendment. The same result must be sought by deciding against the amendment to the amendment, and then moving it again as it was wished to be amended. In this form it becomes only an amendment to an amendment.

In filling a blank with a sum, the largest sum shall be first put to the question, by the 18th Rule of the Senate, contrary to the rule of Parliament, which privileges the smallest sum and longest time.—5 *Grey*, 179; 2 *Hats.* 8, 83; 3 *Hats.* 132, 133. And this is considered to be not in the form of an amendment to the question, but as alternative or successive originals. In all

cases of time or number, we must consider whether the larger comprehends the lesser, as in a question to what day a postponement shall be, the number of a committee, amount of a fine, term of an imprisonment, term of irredeemability of a loan, or the *terminus in quem* in any other case. Then the question must begin *a maximo*. Or whether the lesser includes the greater, as in question on the limitation of the rate of interest, on what day the session shall be closed by adjournment, on what day the next shall commence, when an act shall commence, or the *terminus a quo* in any other case, where the question must begin *a minimo*. The object being not to begin at that extreme, which, and more, being within every man's wish, no one could negative it, and yet, if we should vote in the affirmative, every question for more would be precluded; but at that extreme which would unite few, and then to advance or recede till you get to a number which will unite a bare majority.—3 *Grey*, 376, 384, 385. "The fair question in this case is not that to which and more all will agree, whether there shall be addition to the question."—1 *Grey*, 365.

Another exception to the rule of priority is, when a motion has been made to strike out or agree to a paragraph. Motions to amend it are to be put to the question, before a vote is taken on striking out, or agreeing to the whole paragraph.

But there are several questions, which, being incidental to every one, will take place of every one, privileged or not; to wit, a question of order arising out of any other question, must be decided before that question.—2 *Hats.* 88.

A matter of privilege arising out of any question, or from a quarrel between two members, or any other cause, supersedes the consideration of the original question, and must first be disposed of.—2 *Hats.* 88.

Reading papers relative to the question before the House. This question must be put before the principal one.—2 *Hats.* 88.

Leave asked to withdraw a motion. The rule of Parliament being, that a motion made and seconded is in possession of the House, and cannot be withdrawn without leave, the very terms of the rule imply that leave may be given, and, consequently, may be asked and put to the question.

SECTION XXXIV.

THE PREVIOUS QUESTION.

When any question is before the House, any member may move a previous question, "Whether that question (called the main question) shall now be put?" If it pass in the affirmative, then the main question is to be put immediately, and no man may speak anything further to it, either to add or alter.—*Memor. in Hakew.* 28; 4 *Grey*, 27.

The previous question being moved and seconded, the question from the chair shall be, "Shall the main question be now put?" and if the nays prevail, the main question shall not then be put.—*Rule* 9.

This kind of question is understood by Mr. Hatsell to have been introduced in 1604.—2 *Hats.* 80. Sir Henry Vane introduced it.—2 *Grey*, 113, 114; 3 *Grey*, 384. When the question was put in this form, "Shall the main question be put?" a determination in the negative suppressed the main question during the session; but since the words "now put" are used, they exclude it for the present only. Formerly, indeed, only till the present debate was over; 4 *Grey*, 43; but now for that day and no longer.—2 *Grey*, 113, 114.

Before the question, "Whether the main question shall now be put?" any person might formerly have spoken to the main question, because otherwise he would be precluded from speaking to it at all.—*Mem. in Hakew.* 28.

The proper occasion for the previous question is, when a subject is brought forward of a delicate nature as to high personages, &c., or the discussion of which may call forth observations which might be of injurious consequences. Then the previous question is proposed, and, in the modern usage, the discussion of the main question is suspended, and the debate confined to the previous question. The use of it has been extended abusively to other cases; but in these, it is an embarrassing procedure: its uses would be as well answered by other more simple Parliament-

ary forms, and therefore it should not be favored, but restricted within as narrow limits as possible.

Whether a main question may be amended after the previous question on it has been moved and seconded? 2 *Hatsell*, 88, says, If the previous question had been moved and seconded, and also proposed from the chair, (by which he means, stated by the Speaker for debate,) it has been doubted whether an amendment can be admitted to the main question. He thinks it may, after the previous question moved and seconded; but not after it has been proposed from the chair.

In this case he thinks the friends to the amendment must vote that the main question be not now put, and then move their amended question, which being made new by the amendment, is no longer the same which has been just suppressed, and therefore may be proposed as a new one. But this proceeding certainly endangers the main question, by dividing its friends, some of whom may choose it unamended, rather than lose it altogether; while others of them may vote, as Hatsell advises, that the main question be not now put, with a view to move it again in an amended form. The enemies of the main question by this manœuvre to the previous question, get the enemies to the amendment added to them on the first vote, and throw the friends of the main question under the embarrassment of rallying again as they can. To support his opinion, too, he makes the deciding circumstance, whether an amendment may or may not be made, to be, that the previous question has been proposed from the chair. But as the rule is, that the House is in possession of a question as soon as it is moved and seconded, it cannot be more than possessed of it by its being also proposed from the chair. It may be said, indeed, that the object of the previous question being to get rid of a question, which it is not expedient should be discussed, this object may be defeated by moving to amend, and, in the discussion of that motion, involving the subject of the main question. But so may the object of the previous question be defeated by moving the amended question, as Mr. Hatsell proposes, after the decision against putting the original question. He acknowledges, too, that the practice has been

to admit previous amendment, and only cites a few late instances to the contrary. On the whole, I should think it best to decide it *ab inconvenienti;* to wit, Which is most inconvenient, to put it in the power of one side of the House to defeat a proposition by hastily moving the previous question, and thus forcing the main question to be put amended? or to put it in the power of the other side to force on, incidentally at least, a discussion which would be better avoided? Perhaps the last is the least inconvenience; inasmuch as the Speaker, by confining the discussion rigorously to the amendment only, may prevent their going into the main question; and inasmuch also, as so great a proportion of the cases, in which the previous question is called for, are fair and proper subjects of public discussion, and ought not to be obstructed by a formality introduced for questions of a peculiar character.

SECTION XXXV.

AMENDMENTS.

On an amendment being moved, a member who has spoken to the main question may speak again to the amendment.—*Scob.* 23.

If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House; but not within the competence of the Speaker to suppress, as if it were against order. For, were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress instead of subserving the legislative will.

Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition, by making it bear a sense different from what was intended by the movers, so that they vote against it themselves.—2 *Hats.* 79; 4, 82, 84. A new bill may be ingrafted, by way of amendment, on the words, "Be it enacted," &c.—1 *Grey,* 190, 192.

If it be proposed to amend by leaving out certain words, it

may be moved as an amendment to this amendment, to leave out a part of the words of the amendment, which is equivalent to leaving them in the bill.—2 *Hats.* 80, 9. The Parliamentary question is always, Whether the words shall stand part of the bill?

When it is proposed to amend by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can, by amendments, before the question is put for inserting it. If it be received, it cannot be amended afterwards, in the same stage, because the House has, on a vote, agreed to it in that form. In like manner, if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments, before the question is put for striking it out. If, on the question, it be retained, it cannot be amended afterwards; because a vote against striking out is equivalent to a vote agreeing to it in that form.

When it is moved to amend, by striking out certain words and inserting others, the manner of stating the question is, first to read the whole passage to be amended, as it stands at present; then the words proposed to be struck out; next those to be inserted; and lastly, the whole passage, as it will be when amended. And the question, if desired, is then to be divided, and put first on striking out. If carried, it is next on inserting the words proposed. If that be lost, it may be moved to insert others.—2 *Hats.* 80, 7.

A motion is made to amend by striking out certain words, and inserting others in their place, which is negatived. Then it is moved to strike out the same words, and to insert others of a tenor entirely different from those first proposed. It is negatived. Then it is moved to strike out the same words and insert nothing, which is agreed to. All this is admissible: because to strike out and insert A, is one proposition. To strike out and insert B, is a different proposition. And to strike out and insert nothing is still different. And the rejection of one proposition does not preclude the offering a different one. Nor would it change the case were the first motion divided by putting the question first on striking out, and that negatived. For as putting the

whole motion to the question at once would not have precluded, the putting the half of it cannot do it.*

But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B. In which case, those who preferred it would join in rejecting A.

After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out be so substantial as to make this effectively a different proposition. For then it is resolved into the common case of striking out a paragraph after amending it. Nor does anything forbid a new insertion, instead of A and its coherence.

In Senate, January 25, 1798, a motion to postpone, until the second Tuesday in February, some amendments proposed to the Constitution. The words, "until the second Tuesday in February," were struck out by way of amendment. Then it was moved to add, "until the first day of June." Objected, that it was not in order, as the question should first be put on the longest time; therefore, a shorter time decided against, a longer cannot be put to question. It was answered, that this rule takes place only in filling blanks for time. But when a specific time stands part of a motion, that may be struck out as well as any other part of the motion; and when struck out, a motion may be received to insert any other. In fact, it is not till they are struck out, and a blank for the time thereby produced, that the rule can begin to operate, by receiving all the propositions for different times, and putting the questions successively on the

* In a case of division of the question, and a decision against striking out, I advance, doubtingly, the opinion here expressed. I find no authority either way; and I know it may be viewed under a different aspect. It may be thought, that having decided separately not to strike out the passage, the same question for striking out cannot be put over again, though with a view to a different insertion Still I think it more reasonable and convenient to consider the striking out and insertion as forming one proposition; but should readily yield to any evidence that the contrary is the practice in Parliament.

longest. Otherwise, it would be in the power of the mover, by inserting originally a short time, to preclude the possibility of a longer. For, till the short time is struck out, you cannot insert a longer; and if, after it is struck out, you cannot do it, then it cannot be done at all. Suppose the first motion has been to amend by striking out "the second Tuesday in February," and inserting, instead thereof, "the first of June." It would have been regular then to divide the question, by proposing first the question to strike out and then that to insert. Now, this is precisely the effect of the present proceeding; only, instead of one motion and two questions, there are two motions and two questions to effect it; the motion being divided as well as the question.

When the matter contained in two bills might be better put into one, the manner is to reject the one, and incorporate its matter into another bill by way of amendment. So, if the matter of one bill would be better distributed into two, any part may be struck out by way of amendment, and put into a new bill. If a section is to be transposed, a question must be put on striking it out where it stands, and another for inserting it in the place desired.

A bill passed by the one House, with blanks. These may be filled up by the other, by way of amendments, returned to the first, as such, and passed.—3 *Hats.* 83.

The number prefixed to the section of a bill being merely a marginal indication, and no part of the text of the bill, the clerk regulates that; the House or committee is only to amend the text.

SECTION XXXVI.

DIVISION OF THE QUESTION.

If a question contain more parts than one, it may be divided into two or more questions.—*Mem. in Hakew.* 29. But not as the right of an individual member, but with the consent of the House. For who is to decide whether a question is complicated or not? where it is complicated? into how many propositions it

may be divided? The fact is, that the only mode of separating a complicated question is by moving amendments to it; and these must be decided by the House on a question, unless the House orders it to be divided: as on the question, Dec. 2, 1640, making void the election of the Knights of Worcester, on a motion it was resolved to make two questions of it. to wit, one on each Knight. —2 *Hats.* 85, 86. So, wherever there are several names in a question, they may be divided, and put one by one.—9 *Grey*, 444. So, 1729, April 17, on an objection that a question was complicated, it was separated by amendment.—2 *Hats.* 79. 5.

The soundness of these observations will be evident from the embarrassments produced by the 10th rule of the Senate, which says, "If the question in debate contain several points, any member may have the same divided."

1798, May 30, the alien bill in quasi-committee. To a section and proviso in the original, had been added two new provises by way of amendment. On a motion to strike out the section as amended, the question was desired to be divided. To do this, it must be put first on striking out either the former proviso, or some distinct member of the section. But when nothing remains but the last member of the section, and the provisos, they cannot be divided so as to put the last member to question by itself; for the provisos might thus be left standing alone as exceptions to a rule when the rule is taken away: or the new provisos might be left to a second question, after having been decided on once before at the same reading; which is contrary to rule. But the question must be on striking out the last member of the section as amended. This sweeps away the exceptions with the rule, and relieves from inconsistence. A question to be divisible, must comprehend points so distinct and entire, that one of them being taken away, the other may stand entire. But a proviso or exception, with an enacting clause, does not contain an entire point or proposition.

May 31. The same bill being before the Senate. There was a proviso, that the bill should not extend, 1. To any foreign minister; nor, 2. To any person to whom the President should give a passport; nor, 3. To any alien merchant, conforming him-

self to such regulations as the President shall prescribe; and division of the question into its simplest elements was called for. It was divided into four parts, the 4th taking in the words "conforming himself," &c. It was objected, that the words "any alien merchant" could not be separated from their modifying words "conforming," &c., because these words, if left by themselves, contain no substantive idea, will make no sense. But admitting that the divisions of a paragraph into separate questions must be so made as that each part may stand by itself, yet the House having, on the question, retained the first two divisions, the words "any alien merchant" may be struck out, and their modifying words will then attach themselves to the preceding description of persons, and become a modification of that description.

When a question is divided, after the question on the 1st member, the 2d is open to debate and amendment: because it is a known rule, that a person may rise and speak at any time before the question has been completely decided by putting the negative, as well as the affirmative side. But the question is not completely put when the vote has been taken on the first member only. One half of the question, both affirmative and negative, still remains to be put.—See *Executive Journ.*, June 25, 1795. The same decision by President Adams.

SECTION XXXVII.

CO-EXISTING QUESTIONS.

It may be asked whether the House can be in possession of two motions or propositions at the same time? So that, one of them being decided, the other goes to question without being moved anew? The answer must be special. When a question is interrupted by a vote of adjournment, it is thereby removed from before the House; and does not stand *ipso facto* before them at their next meeting, but must come forward in the usual way: so, when it is interrupted by the order of the day. Such other privileged questions also as dispose of the main question (*e. g.* the previous question, the postponement, or commitment) remove it

from before the House. But it is only suspended by a motion to amend, to withdraw, to read papers, or by a question of order or privilege, and stands again before the House when these are decided. None but the class of privileged questions can be brought forward while there is another question before the House; the rule being, that when a motion has been made and seconded no other can be received except it be a privileged one.

SECTION XXXVIII.

EQUIVALENT QUESTIONS.

If, on a question for rejection, a bill be retained, it passes of course to its next reading.—*Hakew.* 141. *Scob.* 42, and a question for a second reading determined negatively, is a rejection without farther question.—4 *Grey*, 149. And see *Elsynge's Memor.* 42, in what case questions are to be taken for rejection.

Where questions are perfectly equivalent, so that the negative of the one amounts to the affirmative of the other, and leaves no other alternative, the decision of the one concludes necessarily the other.—4 *Grey*, 157. Thus the negative of striking out amounts to the affirmative of agreeing; and therefore to put a question on agreeing after that on striking out, would be to put the same question in effect twice over. Not so in questions of amendments between the two Houses. A motion to recede being negatived, does not amount to a positive vote to insist, because there is another alternative, to wit, to adhere.

A bill originating in one House, is passed by the other with an amendment. A motion in the originating House, to agree to the amendment, is negatived. Do these result from this vote of disagreement? or must the question on disagreement be expressly voted? The questions respecting amendments from another House are, 1st. To agree: 2d. Disagree: 3d. Recede: 4th. Insist: 5th. Adhere.

1st. To agree.
2d. To disagree.

Either of these concludes the other necessarily, for the positive of either is exactly the equivalent of the negative of the other, and no other alternative remains. On either motion, amendments to the amendment may be proposed; *e. g.* if it be moved to disagree, those who are for the amendment have a right to propose amendments, and to make it as perfect as they can, before the question of disagreeing is put.

3d. To recede.
4th. To insist.
5th. To adhere.

You may then either insist or adhere. You may then either recede or adhere. You may then either recede or insist. Consequently, the negative of these is not equivalent to a positive vote the other way. It does not raise so necessary an implication as may authorize the secretary by inference to enter another vote; for two alternatives still remain, either of which may be adopted by the House.

SECTION XXXIX.

THE QUESTION.

The question is to be put first on the affirmative, and then on the negative side.

After the Speaker has put the affirmative part of the question, any member who has not spoken before the question, may rise and speak before the negative be put. Because it is no full question till the negative part be put.—*Scob.* 23; *Hats.* 73.

But in small matters, and which are of course, such as receiving petitions, reports, withdrawing motions, reading papers, &c., the Speaker most commonly supposes the consent of the House, where no objection is expressed, and does not give them the trouble of putting the question formally.—*Scob.* 22; 2 *Hats.* 87. 2. 87; 5 *Grey*, 129; 9 *Grey*, 301.

SECTION XL.

BILL, THIRD READING.

To prevent bills from being passed by surprise, the House, by a standing order, directs that they shall not be put on their passage before a fixed hour, naming one at which the House is commonly full.—*Hakew.* 153.

The usage of the Senate is, not to put bills on their passage till noon.

A bill reported and passed to the third reading, cannot on that day be read the third time and passed. Because this would be to pass on two readings on the same day. At the third reading, the clerk reads the bill, and delivers it to the Speaker, who states the title, that it is the third time of reading the bill, and that the question will be, Whether it shall pass? Formerly, the Speaker, or those who prepared a bill, prepared also a breviate or summary statement of its contents, which the Speaker read when he declared the state of the bill at the several readings. Sometimes, however, he read the bill itself, especially on its passage.—*Hakew.* 136, 137, 153; *Coke*, 22, 115. Latterly, instead of this, he, at the third reading, states the whole contents of the bill, verbatim; only instead of reading the formal parts, "be it enacted," &c., he states that "the preamble recites so and so; the first section enacts, that, &c.; the second section enacts," &c.

But in the Senate of the United States, both of these formalities are dispensed with; the breviate presenting but an imperfect view of the bill, and being capable of being made to present a false one; and the full statement being a useless waste of time, immediately after a full reading by the clerk; and especially as every member has a printed copy in his hand.

A bill, on the third reading, is not to be committed for the matter or body thereof; but, to receive some particular clause or proviso, it hath been sometimes suffered, but as a thing very unusual.—*Hakew.* 156; thus, 27 *El.* 1584, a bill was committed on the third reading, having been formerly committed on the second; but it is declared not usual.—*D'Ewes*, 137, *col.* 2. 414, *col.* 2.

When an essential provision has been omitted, rather than erase the bill, and render it suspicious, they add a clause on a separate paper, engrossed and called a rider, which is read, and put to the question three times.—*Elsynge's Memorials*, 59; 6 *Grey*, 335; 1 *Blackst.* 183. For examples of riders, see 3 *Hats.* 121, 122, 124, 126. Every one is at liberty to bring in a rider without asking leave.—10 *Grey*, 52.

It is laid down as a general rule, that amendments proposed at the second reading shall be twice read, and those proposed at the third reading thrice read; as also all amendments from the other House.—*Town. col.* 19, 23, 24, 25, 26, 27, 28.

It is with great, and almost invincible reluctance, that amendments are admitted at this reading, which occasion erasures or interlineations. Sometimes the proviso has been cut off from a bill; sometimes erased.—9 *Grey*, 513.

This is the proper stage for filling up blanks; for if filled up before, and now altered by erasure, it would be peculiarly unsafe.

At this reading, the bill is debated afresh, and for the most part is more spoken to, at this time, than on any of the former readings.—*Hakew.* 153.

The debate on the question, Whether it should be read a third time? has discovered to its friends and opponents the arguments on which each side relies, and which of these appear to have influence with the House; they have had time to meet them with new arguments, and to put their old ones into new shapes. The former vote has tried the strength of the first opinion, and furnished grounds to estimate the issue; and the question now offered for its passage, is the last occasion which is ever to be offered for carrying or rejecting it.

When the debate is ended, the Speaker, holding the bill in his hand, puts the question for its passage, by saying, "Gentlemen, all you who are of opinion that this bill shall pass, say ay;" and after the answer of ayes, "All those of the contrary opinion, say no."—*Hakew.* 154.

After the bill has passed, there can be no further alteration of it in any point.—*Hakew.* 159.

SECTION XLI.

DIVISION OF THE HOUSE.

The affirmative and negative of the question having been both put and answered, the Speaker declares whether the yeas or nays have it by the sound, if he be himself satisfied, and it stands as the judgment of the House. But if he be not himself satisfied which voice is the greater, or if, before any other member comes into the House, or before any new motion is made, (for it is too late after that,) any member shall rise and declare himself dissatisfied with the Speaker's decision, then the Speaker is to divide the House.—*Scob.* 24; 2 *Hats.* 140.

When the House of Commons is divided, the one party goes forth, and the other remains in the House. This has made it important which go forth, and which remain; because the latter gain all the indolent, the indifferent, and inattentive. Their general rule, therefore, is, that those who give their vote for the preservation of the orders of the House shall stay in, and those who are for introducing any new matter, or alteration, or proceeding contrary to the established course, are to go out. But this rule is subject to many exceptions and modifications.—2 *Rush.* p. 3, fol. 92; *Scob.* 43, 52; *Co.* 12, 116; *D'Ewes*, 505, *col.* 1; *Mem. in Hakew.* 25, 29; as will appear by the following statement of who go forth.

Petition that it be received,* - -	Ayes.
Read, - - - - -	
Lie on the table, - - - -	Noes.
Rejected after refusal to lie on the table,	
Referred to a committee, or farther proceeding, - - - - -	Ayes.
Bill, that it be brought in, - -	Ayes.
Read 1st or 2d time, - - -	
Engrossed or read 3d time, - -	
Proceeding on every other stage, -	
Committed, - - - - -	

* Noes.—9 Grey, 365.

To a committee of the whole, - -	Noes.	
To a select committee, - - -	Ayes.	
Report of a bill to lie on table, -	Noes.	
Be *now* read, - - - - -	Ayes.	
Be taken into consideration three months hence, - - - - - -	50 P. J. 251.	
Amendments be read a 2d time, -	Noes.	
Clause offered on report of bill be read 2d time, - - - - - -	Ayes.	334
For receiving a clause, - - -		
With amendments be engrossed, -		
That a bill be now read a 3d time, -	Noes.	398
Receive a rider, - - - - -	Ayes.	260
Pass, - - - - - -		259
Be printed, - - - - -		
Committees. That A take the chair,	Noes.	
To agree to the whole or any part of report, - - - - - -		
That the House do *now* resolve into a committee, - - - - -		291
Speaker. That he now leave the chair, after order to go into committee, -		
That he issue warrant for a new visit.		
Member. That none be absent without leave, - - - - -		
Witness. That he be farther examined,	Ayes.	344
Previous questions, - - -	Noes.	
Blanks. That they be filled with the largest sum, - - - - -	Ayes.	
Amendments. That words stand part of,		
Lords. That their amendments be read a 2d time, - - - - -	Ayes.	
Messenger be received, - - -	Ayes.	
Orders of the day to be now read, if before 2 o'clock, - - - - -		
If after 2 o'clock, - - - -	Noes.	

Adjournment till the next sitting day, if before 4 o'clock,	Ayes.
If after 4 o'clock, - - - -	Noes.
Over a sitting day, (unless a previous resolution,) - - - - -	Ayes.
Over the 30th January, - - -	Noes.
For sitting on Sunday, or any other day, not being a sitting day, - -	Ayes.

The one party being gone forth, the Speaker names two tellers from the affirmative, and two from the negative side, who first count those sitting in the House, and report the number to the Speaker. Then they place themselves within the door, two on each side, and count those who went forth, as they come in, and report the number to the speaker.—*Mem. in Hakew.* 26.

A mistake in the report of the tellers may be rectified after the report made.—2 *Hats.* 145. Note.

But, in both Houses of Congress, all those intricacies are avoided. The ayes first rise, and are counted, standing in their places, by the President or Speaker. Then they sit, and the noes rise, and are counted in like manner.

In Senate, if they be equally divided, the Vice-President announces his opinion, which decides.

The Constitution, however, has directed that "the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal." And again, that in all cases of re-considering a bill disapproved by the President, and returned with his objections, "the votes of both Houses shall be determined by the yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the journals of each House respectively."

By the 11th rule of the Senate, when the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reasons he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the House, the names of the members shall be taken alphabetically.

When it is proposed to take a vote by yeas and nays, the President or Speaker states that "The question is whether, *e. g.*, the bill shall pass? That it is proposed that the yeas and nays shall be entered on the journal. Those, therefore, who desire it will rise." If he finds and declares that one-fifth have risen, he then states, that "those who are of opinion that the bill shall pass, are to answer in the affirmative, those of the contrary opinion, in the negative." The clerk then calls over the names alphabetically, notes the yea or nay of each, and gives the list to the President or Speaker, who declares the result. In Senate, if there be an equal division, the Secretary calls on the Vice-President, who notes his affirmative or negative, which becomes the decision of the House.

In the House of Commons, every member must give his vote the one way or the other.—*Scob.* 24. As it is not permitted to any one to withdraw who is in the House when the question is put, nor is any one to be told in the division who was not in when the question was put.—2 *Hats.* 140.

This last position is always true when the vote is by yeas and nays; where the negative as well as the affirmative of the question is stated by the President at the same time, and the vote of both sides begins and proceeds *pari passu*. It is true, also, when the question is put in the usual way, if the negative has also been put. But if it has not, the member entering, or any other member may speak, and even propose amendments, by which the debate may be opened again, and the question greatly deferred. And, as some who have answered ay, may have been changed by the new arguments, the affirmative must be put over again. If, then, the member entering may, by speaking a few words, occasion a repetition of the question, it would be useless to deny it on his simple call for it.

While the House is telling, no member may speak, or move out of his place; for, if any mistake be suspected, it must be told again.—*Mem. in Hakew.* 26; 2 *Hats.* 143.

If any difficulty arises in point of order, during the division, the Speaker is to decide peremptorily, subject to the future censure of the House, if irregular. He sometimes permits old experienced members to assist him with their advice, which they do sitting in their seats, covered to avoid the appearance of debate; but this can only be with the Speaker's leave, else the division might last several hours.—2 *Hats.* 143.

The voice of the majority decides. For the *lex majoris partis* is the law of all councils, elections, &c., where not otherwise expressly provided.—*Hakew.* 93. But if the House be equally divided, "*semper presumatur pro negante*:" that is, the former law is not to be changed but by a majority.—*Towns. col.* 134.

But, in the Senate of the United States, the Vice-President decides, when the House is divided.—*Const. U. S.*, Art. I. Sec. 2.

When, from counting the House, on a division, it appears that

there is not a quorum, the matter continues exactly in the state in which it was before the division, and must be resumed at that point on any future day.—2 *Hats.* 126.

1606, May 1, on a question whether a member having said Yea, may afterwards sit and change his opinion? a precedent was remembered by the Speaker, of Mr. Morris, attorney of the wards, in 39 *Eliz.*, who in like case changed his opinion.—*Mem. in Hakew.* 27.

SECTION XLII.

TITLE.

After the bill has passed, and not before, the title may be amended, and is to be fixed by a question; and the bill is then sent to the other House.

SECTION XLIII.

RE-CONSIDERATION.

When a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the re-consideration thereof.—*Rule* 22.

1798, Jan. A bill on its second reading, being amended, and on the question, whether it shall be read a third time negatived, was restored by a decision to re-consider the question. Here the votes of negative and re-consideration, like positive and negative quantities in equation, destroy one another, and are as if they were expunged from the journals. Consequently the bill is open for amendment, just so far as it was the moment preceding the question for the third reading. That is to say, all parts of the bill are open for amendment, except those on which votes have been already taken in its present stage. So also may it be re-committed.

The rule permitting a re-consideration of a question affixing to it no limitation of time or circumstance, it may be asked whether there is no limitation? If, after the vote, the paper on which it has passed has been parted with, there can be no re-consideration: as if a vote has been for the passage of a bill, and the bill has been sent to the other House. But where the paper remains, as on a bill rejected, when, or under what circumstances, does it cease to be susceptible of re-consideration? This remains to be settled, unless a sense that the right of re-consideration is a right to waste the time of the House in repeated agitations of

the same question, so that it shall never know when a question is done with should induce them to reform this anomalous proceeding.

In Parliament, a question once carried, cannot be questioned again, at the same session; but must stand as the judgment of the House.—*Towns. col.* 67; *Memor. in Hakew.* 33. And a bill once rejected, another of the same substance cannot be brought in again the same session.—*Hakew.* 158; 6 *Grey*, 392. But this does not extend to prevent putting the same questions in different stages of a bill; because every stage of a bill submits the whole and every part of it to the opinion of the House, as open for amendment, either by insertion or omission, though the same amendment has been accepted or rejected in a former stage. So in reports of committees, *e. g.* report of an address, the same question is before the House, and open for free discussion.—*Towns. col.* 26; 2 *Hats.* 98, 100, 101. So, orders of the House, or instructions to committees may be discharged. So a bill begun in one House, sent to the other, and there rejected, may be renewed again in that other, passed, and sent back.—*Ib.* 92; 3 *Hats.* 161. Or if, instead of being rejected, they read it once, and lay it aside, and put it off a month, they may offer in another to the same effect, with the same or a different title.—*Hakew.* 97, 98.

Divers expedients are used to correct the effects of this rule; as, by passing an explanatory act, if anything has been omitted or ill-expressed, 3 *Hats.* 278; or an act to enforce, and make more effectual an act, &c., or to rectify mistakes in an act, &c.; or a committee on one bill may be instructed to receive a clause to rectify the mistakes of another. Thus, June 24, 1685, a clause was inserted in a bill for rectifying a mistake committed by a clerk in engrossing a bill of reply.—2 *Hats.* 194. 6. Or the session may be closed for one, two, three, or more days, and a new one commenced. But then all matters depending must be finished, or they fall, and are to begin *de novo*.—2 *Hats.* 94, 98. Or a part of the subject may be taken up by another bill, or taken up in a different way.—6 *Grey*, 316.

And in cases of the last magnitude, this rule has not been so strictly and verbally observed as to stop indispensable proceed-

ings altogether.—2 *Hats.* 92. 98. Thus, when the address on the preliminaries of peace, in 1782, had been lost by a majority of one; on account of the importance of the question, and smallness of the majority, the same question in substance, though with words not in the first, and which might change the opinions of some members, was brought on again and carried: as the motives for it were thought to outweigh the objections of form.—2 *Hats.* 99, 100.

A second bill may be passed, to continue an act of the same session; or to enlarge the time limited for its execution.—2 *Hats.* 95, 98. This is not in contradiction to the first act.

SECTION XLIV.

BILLS SENT TO THE OTHER HOUSE.

All bills passed in the Senate, shall before they are sent to the House of Representatives, be examined by the committees respectively who brought in such bills, or to whom the same have been last committed in Senate.—*Rule* 23.

A bill from the other House is sometimes ordered to lie on the table.—2 *Hats.* 97.

When bills, passed in one House and sent to the other, are grounded on special facts requiring proof, it is usual, either by message, or at a conference, to ask the grounds and evidence; and this evidence, whether arising out of papers, or from the examination of witnesses, is immediately communicated.—3 *Hats.* 48.

SECTION XLV.

AMENDMENTS BETWEEN THE HOUSES.

When either House, *e. g.* the House of Commons, sends a bill to the other, the other may pass it with amendments. The regular progression in this case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement; the Lords adhere to their amendment; the Commons adhere to their disagreement. The term of insisting

may be repeated as often as they choose, to keep the question open. But the first adherence by either renders it necessary for the other side to recede or adhere also; when the matter is usually suffered to fall.—10 *Grey*, 148. Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would be endless.—3 *Hats.* 268, 270. The term of insisting, we are told by Sir John Trevor, was then [1679] newly introduced into Parliamentary usage, by the Lords.—7 *Grey*, 94. It was certainly a happy innovation, as it multiplies the opportunities of trying modifications which may bring the House to a concurrence. Either House, however, is free to pass over the term of insisting, and to adhere in the first instance.—10 *Grey*, 146. But it is not respectful to the other. In the ordinary Parliamentary course, there are two free conferences at least before adherence.—10 *Grey*, 147.

Either House may recede from its amendment, and agree to the bill; or recede from their disagreement to the amendment, and agree to the same absolutely, or with an amendment. For here the disagreement and receding destroy one another, and the subject stands as before the disagreement.—*Elsynge*, 23, 27; 9 *Grey*, 476.

But the House cannot recede from or insist on, its own amendment with an amendment, for the same reason that it cannot send to the other House an amendment to its own act after it has passed the act. They may modify an amendment from the other House by ingrafting an amendment on it, because they have never assented to it; but they cannot amend their own amendment, because they have, on the question, passed it in that form; 9 *Grey*, 353; 10 *Grey*, 240. In Senate, March 29, 1798. Nor where one House has adhered to their amendment, and the other agrees with an amendment, can the first House depart from the form which they have fixed by an adherence.

In the case of a money bill, the Lords' proposed amendments became, by delay, confessedly necessary. The Commons, however, refused them, as infringing on their privilege as to money

bills, but they offered themselves to add to the bill a proviso to the same effect, which had no coherence with the Lords' amendments, and urged, that it was an expedient warranted by precedent, and not unparliamentary in a case become impracticable, and irremediable in any other way.—3 *Hats.* 256, 266, 270, 271. But the Lords refused and the bill was lost, 1 *Chand.* 288. A like case, 1 *Chand.* 311. So the Commons resolve, that it is unparliamentary to strike out at a conference anything in a bill which hath been agreed and passed by both Houses, 6 *Grey*, 274; 1 *Chand.* 312.

A motion to amend an amendment from the other House, takes precedence of a motion to agree or disagree.

A bill originating in one House, is passed by the other with an amendment.

The originating House agrees to their amendment with an amendment. The other may agree to their amendment with an amendment; that being only in the second and not the third degree. For, as to the amending House, the first amendment with which they passed the bill is a part of its text; it is the only text they have agreed to. The amendment to that text by the originating House, therefore, is only in the 1st degree, and the amendment to that again by the amending House is only in the 2d, to wit, an amendment to an amendment, and so admissible. Just so when, on a bill from the originating House, the other, at its 2d reading, makes an amendment; on the 3d reading, this amendment is become the text of the bill, and if an amendment to it be moved, an amendment to that amendment may also be moved, as being only in the second degree.

SECTION XLVI.

CONFERENCES.

It is on the occasion of amendments between the Houses that conferences are usually asked; but they may be asked in all cases of difference of opinion between the two Houses on matters depending between them. The request of a conference,

however, must always be by the House which is possessed of the papers.—3 *Hats.* 71; 1 *Grey*, 435; 4 *Hats.* 3, 43.

Conferences may be either simple or free. At a conference simply, written reasons are prepared by the House asking it, and they are read and delivered without debate, to the managers of the other House at the conference; but are not then to be answered.—3 *Grey*, 144. The other House then, if satisfied, vote the reasons satisfactory, or say nothing; if not satisfied, they resolve them not satisfactory, and ask a conference on the subject of the last conference, where they read and deliver in like manner written answers to those reasons.—3 *Grey*, 183. They are meant chiefly to record the justification of each House to the nation at large, and to posterity, and in proof that the miscarriage of a necessary measure is not imputable to them.—3 *Grey*, 255. At free conferences, the managers discuss *viva voce* and freely, and interchange propositions for such modifications as may be made in a Parliamentary way, and may bring the sense of the two houses together. And each party reports in writing to their respective Houses the substance of what is said on both sides, and it is entered in their journals.—6 *Grey*, 220; 3 *Hats.* 280. (*Vide Joint Rules*, 1.) This report cannot be amended or altered as that of a committee may be.—*Journ. Senate*, May 24, 1796.

A conference may be asked, before the House asking it has come to a resolution of disagreement, insisting or adhering.—3 *Hats.* 269, 341. In which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given. And this is the most reasonable and respectful proceeding. For, as was urged by the Lords on a particular occasion, "it is held vain, and below the wisdom of Parliament, to reason or argue against fixed resolutions, and upon terms of impossibility to persuade."—3 *Hats.* 226. So the Commons say "an adherence is never delivered at a free conference, which implies debate."—10 *Grey*, 147. And on another occasion, the Lords made it an objection that the Commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the Commons, that nothing

was more Parliamentary than to proceed with free conferences after adhering; 3 *Hats.* 269; and we do in fact see instances of conference or of free conference, asked after the resolution of disagreeing.—3 *Hats.* 251, 253, 260, 286, 291, 316, 349, of insisting, *ib.* 280, 296, 299, 319, 322, 355, of adhering, 269, 270, 283, 300; and even of a second or final adherence.—3 *Hats.* 270. And in all cases of conference asked after a vote of disagreement, &c., the conferees of the House asking it are to leave the papers with the conferees of the other; and in one case where they refused to receive them, they were left on the table in the conference chamber.—3 *Hats.* 271, 317, 323, 354; 10 *Grey*, 146. The Commons affirm, that it is usual to have two free conferences or more before either House proceeds to adhere, because, before that time, the Houses have not had the full opportunity of making replies to one another's arguments, and, to adhere so suddenly and unexpectedly, excludes all possibility of offering expedients. —4 *Hats.* 330.

After a free conference the usage is to proceed with free conferences, and not to return again to a conference.—3 *Hats.* 270; 9 *Grey*, 229.

After a conference denied, a free conference may be asked.—1 *Grey*, 45.

When a conference is asked, the subject of it must be expressed, or the conference not agreed to.—*Ord. H. Com.* 89; 1 *Grey*, 425; 7 *Grey*, 31. They are sometimes asked to inquire concerning an offence or default of a member of the other House, 6 *Grey*, 181; 1 *Chand.* 304; or the failure of the other House to present to the King a bill passed by both Houses, 8 *Grey*, 302; or on information received, and relating to the safety of the nation, 10 *Grey*, 171, or when the methods of Parliament are thought by the one House to have been departed from by the other, a conference is asked to come to a right understanding thereon.—10 *Grey*, 148. So, when an unparliamentary message has been sent, instead of answering it, they ask a conference.—3 *Grey*, 155. Formerly, an address, or articles of impeachment, or a bill with amendments, or a vote of the House, or concurrence in a vote, or a message from the King, were sometimes

communicated by way of conference.—7 *Grey*, 128, 300, 387; 7 *Grey*, 80; 8 *Grey*, 210, 255; 1 *Torbuck's Deb.* 278; 10 *Grey*, 293; 1 *Chandler*, 49, 287. But this is not modern practice.—8 *Grey*, 255.

A conference has been asked after the first reading of a bill. —1 *Grey*, 194. This is a singular instance. During the time of a conference, the House can do no business. As soon as the names of the managers are called over, and they are gone to the conference, the Speaker leaves the chair, without any question, and resumes it in the return of the managers. It is the same while the managers of an impeachment are at the House of Lords.—4 *Hats.* 47, 209, 288.

SECTION XLVII.

MESSAGES.

Messages between the Houses are to be sent only while both Houses are sitting.—3 *Hats.* 15. They are received during a debate, without adjourning the debate.—3 *Hats.* 22.

In Senate, the messengers are introduced in any state of business, except—1. While a question is putting. 2. While the yeas and nays are calling. 3. While the ballots are calling. The first case is short: the second and third are cases where any interruption might occasion errors difficult to be corrected.—So arranged, June 15th, 1798.

In the House of Representatives, as in Parliament, if the House be in a committee when a messenger attends, the Speaker takes the chair to receive the message, and then quits it to return into a committee, without any question or interruption.—4 *Grey*, 226.

Messengers are not saluted by the members, but by the Speaker, for the House.—2 *Grey*, 253, 274.

If messengers commit an error in delivering their messages, they may be admitted, or called in, to correct their message.—1 *Grey*, 41. Accordingly, March 13, 1800, the Senate having made two amendments to a bill from the House of Representatives, their secretary, by mistake, delivered one only: which being inadmissible by itself, that House disagreed, and notified the

Senate of their disagreement. This produced a discovery of the mistake. The secretary was sent to the other House to correct his mistake, the correction was received, and the two amendments acted on *de novo*.

As soon as the messenger, who has brought bills from the other House, has retired, the Speaker holds the bills in his hand, and acquaints the House, "That the other House have, by their messenger, sent certain bills," and then reads their titles, and delivers them to the clerk to be safely kept till they shall be called for to be read.—*Hakew.* 178.

It is not the usage for one House to inform the other by what numbers a bill has passed.—10 *Grey*, 150. Yet they have sometimes recommended a bill as of great importance to the consideration of the House to which it is sent.—3 *Hats.* 25. Nor when they have rejected a bill from the other House, do they give notice of it; but it passes sub-silentio to prevent unbecoming altercation.—1 *Black.* 133.

But in Congress the rejection is notified by message to the House in which the bill originated.

A question is never asked by the one House of the other by way of message, but only at a conference; for this is an interrogatory, not a message.—3 *Grey*, 151, 181.

When a bill is sent by one House to the other, and is neglected, they may send a message to remind them of it.—3 *Hats.* 25; 5 *Grey*, 154. But if it be mere inattention, it is better to have it done informally, by communications between the Speakers, or members of the two Houses.

Where the subject of a message is of a nature that it can properly be communicated to both Houses of Parliament, it is expected that this communication should be made to both on the same day. But where a message was accompanied with an original declaration, signed by the party, to which the message referred, its being sent to one House was not noticed by the other, because the declaration, being original, could not possibly be sent to both Houses at the same time.—2 *Hats.* 260, 261, 262.

The King having sent original letters to the Commons, afterwards desires they may be returned, that he may communicate them to the Lords.—1 *Chandler*, 303.

SECTION XLVIII.

ASSENT.

The House which has received a bill, and passed it, may present it for the King's assent, and ought to do it, though they have not by message notified to the other their passage of it. Yet the notifying by message is a form which ought to be observed between the two Houses, from motives of respect and good understanding.—3 *Hats.* 242. Were the bill to be withheld from being presented to the King, it would be an infringement of the rules of Parliament.—2 *Hats.* 242.

When a bill has passed both Houses of Congress, the House last acting on it notifies its passage to the other, and delivers the bill to the joint committee of enrolment, who see that it is truly enrolled in parchment. When the bill is enrolled, it is not to be written in paragraphs, but solidly and all of a piece, that the blanks within the paragraphs may not give room for forgery.—9 *Grey*, 143. It is then put in the hands of the clerk of the House of Representatives, to have it signed by the Speaker. The clerk then brings it by way of message to the Senate, to be signed by their President. The secretary of the Senate returns it to the committee of enrolment, who present it to the President of the United States. If he approves, he signs and deposits it among the rolls in the office of the Secretary of State, and notifies by message the House in which it originated, that he has approved and signed it; of which that House informs the other by message. If the President disapproves, he is to return it, with his objections, to the House in which it shall have originated; who are to enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the House shall agree to pass the bill, it shall be sent, together with the President's objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law.—*Const. U. S.*, Art. I. Sec. 7.

Every order, resolution, or vote, to which the concurrence of the Senate and the House of Representatives may be necessary, (except on a question of adjournment,) shall be presented to the President of the United States, and before the

same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.—*Const. U. S.*, Art. I. Sec. 7.

SECTION XLIX.

JOURNALS.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy.—*Const.*, I. 5, 3.

Every vote of Senate shall be entered on the journal, and a brief statement of the contents of each petition, memorial, or paper, presented to the Senate, be also inserted on the journal.—*Rule* 24.

The proceedings of the Senate, when not acting as in a committee of the House, shall be entered on the journals, as concisely as possible, care being taken to detail a true account of the proceedings.—*Rule* 26.

The titles of bills, and such part thereof only as shall be affected by proposed amendments, shall be inserted on the journals.—*Rule* 27.

If a question is interrupted by a vote to adjourn, or to proceed to the orders of the day, the original question is never printed in the journal, it never having been a vote, nor introductory to any vote; but when suppressed by the previous question, the first question must be stated, in order to introduce, and make intelligible, the second.—2 *Hats.* 83.

So also, when a question is postponed, adjourned, or laid on the table, the original question, though not yet a vote, must be expressed in the journals; because it makes part of the vote of postponement, adjourning, or laying on the table

Where amendments are made to a question, those amendments are not printed in the journals, separated from the question; but only the question as finally agreed to by the House. The rule of entering in the journals only what the House has agreed to, is founded in great prudence and good sense; as there may be many questions proposed which it may be improper to publish to the world, in the form in which they are made.—2 *Hats.* 85.

In both Houses of Congress, all questions whereon the yeas and nays are desired by one-fifth of the members present, whether decided affirmatively or negatively, must be entered on the journals.—*Const.* I. 5, 3.

The first order for printing the votes of the House of Commons, was October 30, 1685.—1 *Chandler*, 387.

Some judges have been of opinion, that the journals of the House of Commons are no records, but remembrances. But this is no law.—*Cob.* 110, 111; *Lex. Parl.* 114, 115; *Jour. H. C.* Mar. 17, 1592; *Hale Parl.* 105. For the Lords, in their House, have power of judicature; the Commons, in their House, have power of judicature; and both Houses together have power of judicature; and the book of the clerk of the House of Commons is a record, as is affirmed by act of Parliament.—6 *H.* 8. *c.* 16; *Inst.* 23, 24; and every member of the House of Commons has a judicial place.—4 *Inst.* 15. As records, they are open to every person; and a printed vote of either House is sufficient ground for the other to notice it. Either may appoint a committee to inspect the journals of the other, and report what has been done by the other in any particular case.—2 *Hats.* 261; 3 *Hats.* 27, 30. Every member has a right to see the journals, and to take and publish votes from them. Being a record, every one may see and publish them.—6 *Grey*, 118, 119.

On information of a mis-entry or omission of an entry in the journal, a committee may be appointed to examine and rectify it, and report it to the House.—2 *Hats.* 194, 5.

SECTION L.

ADJOURNMENT.

The two Houses of Parliament have the sole, separate, and independent power of adjourning, each their respective Houses. The King has no authority to adjourn them: he can only signify his desire, and it is in the wisdom and prudence of either House to comply with his requisition, or not, as they see fitting.—2 *Hats.* 332; 1 *Blackstone*, 186; 5 *Grey*, 122.

By the Constitution of the United States, a smaller number than a majority may adjourn from day to day.—I. 5. But neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.—I. 5

The President may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper.—*Const.* II. 3.

A motion to adjourn simply, cannot be amended as by adding, "To a particular day." But must be put simply, "That this House do now adjourn?" and if carried in the affirmative, it is adjourned to the next sitting day, unless it has come to a previous resolution, "That at its rising, it will adjourn to a particular day;" and then the House is adjourned to that day.—2 *Hats.* 82.

Where it is convenient that the business of the House be suspended for a short time, as for a conference presently to be held, &c., it adjourns during pleasure.—2 *Hats.* 305. Or for a quarter of an hour.—5 *Grey*, 331.

If a question be put for adjournment, it is no adjournment till the Speaker pronounces it.—5 *Grey*, 137. And from courtesy and respect, no member leaves his place till the Speaker has passed on.

SECTION LI.

A SESSION.

Parliament have three modes of separation, to wit, by adjournment, by prorogation, by dissolution by the King, or by the efflux of the term for which they were elected. Prorogation or dissolution constitutes there what is called a session; provided some act has passed. In this case, all matters depending before them are discontinued, and at their next meeting are to be taken up *de novo*, if taken up at all.—1 *Blackstone*, 186. Adjournment, which is by themselves, is no more than a continuance of the session from one day to another, or for a fortnight, a month, &c., *ad libitum*. All matters depending remain in *statu quo*, and when they meet again, be the term ever so distant, are resumed without any fresh commencement, at the point at which they were left.—1 *Lex.* 165; *Lex. Parl. c.* 2; 1 *Ro. Rep.* 29; 4 *Inst.* 7, 27, 28; *Hut.* 61; 1 *Mod.* 152; *Ruffh. Jac. L. Dict.*

Parliaments; Blackstone, 186. Their whole session is considered in law but as one day, and has relation to the first day thereof.—*Bro. Abro. Parliament*, 86.

Committees may be appointed to sit during a recess by adjournment, but not by prorogation.—5 *Grey*, 374; 9 *Grey*, 350; 1 *Chandler*, 50. Neither House can continue any portion of itself in any Parliamentary function, beyond the end of the session, without the consent of the other two branches. When done, it is by a bill constituting them commissioners for the particular purpose.

Congress separate in two ways only, to wit, by adjournment or dissolution by the efflux of their time. What then constitutes a session with them? A dissolution certainly closes one session, and the meeting of the new Congress begins another. The Constitution authorizes the President, "On extraordinary occasions, to convene both Houses, or either of them."—Art. I. Sec. 3. If convened by the President's proclamation, this must begin a new session, and of course determine the preceding one to have been a session. So, if it meets under the clause of the Constitution, which says, "The Congress shall assemble, at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day,"—I. 4,—this must begin a new session. For even if the last adjournment was to this day, the act of adjournment is merged in the higher authority of the Constitution, and the meeting will be under that, and not under their adjournment. So far we have fixed landmarks for determining sessions. In other cases, it is declared by the joint vote authorizing the President of the Senate and the Speaker to close the session on a fixed day, which is usually in the following form, "Resolved, by the Senate and House of Representatives, that the President of the Senate and the Speaker of the House of Representatives, be authorized to close the present session, by adjourning their respective Houses on the —— day of ——."

When it was said above, that all matters depending before Parliament were discontinued by the determination of the session, it was not meant for judiciary cases, depending before the House of Lords, such as impeachments, appeals, and writs of error. These stand continued of course to the next session.—*Raym.* 120, 381; *Ruffh. Jac. L. D. Parliament.*

Impeachments stand in like manner continued before the Senate of the United States.

SECTION LII.

TREATIES.

The President of the United States has power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.—*Const. U. S.* Art. II. Sec. 2.

Resolved, That all confidential communications, made by the President of the United States to the Senate, shall be, by the members thereof, kept inviolably secret; and that all treaties, which may hereafter be laid before the Senate, shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secresy.—*Dec. 22d*, 1804.

Treaties are legislative acts. A treaty is a law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. In all countries, I believe, except England, treaties are made by the legislative power; and there, also, if they touch the laws of the land, they must be approved by Parliament. Ware *vs.* Hilton.—3 *Dallas's Rep.* 199. It is acknowledged, for instance, that the King of Great Britain cannot, by a treaty, make a citizen of an alien.—*Vattel, b.* 1, *c.* 19, *sec.* 214. An act of Parliament was necessary to validate the American treaty of 1783. And abundant examples of such acts can be cited. In the case of the treaty of Utrecht, in 1712, the commercial articles required the concurrence of Parliament. But a bill brought in for that purpose was rejected. France, the other contracting party, suffered these articles, in practice, to be not insisted on, and adhered to the rest of the treaty.—1 *Russell's Hist. Mod. Europe*, 457; 2 *Smollet*, 242, 246.

By the Constitution of the United States, this department of legislation is confined to two branches only, of the ordinary Legislature; the President originating, and Senate having a negative. To what subject this power extends, has not been defined in detail by the Constitution; nor are we entirely agreed among ourselves. 1. It is admitted that it must concern the foreign nation, party to the contract, or it would be a mere nullity *res inter alias acta*. 2. By the general power to make treaties, the Constitution must have intended to comprehend only those objects which are usually regulated by treaty, and cannot be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the States; for surely the President and Senate cannot do by treaty what the

whole government is interdicted from doing in any way. 4. And also to except those subjects of legislation in which it gave a participation to the House of Representatives. This last exception is denied by some, on the ground that it would leave very little matter for the treaty power to work on. The less the better say others. The Constitution thought it wise to restrain the Executive and Senate from entangling and embroiling our affairs with those of Europe. Besides, as the negotiations are carried on by the Executive alone, the subjecting to the ratification of the Representatives such articles as are within their participation, is no more inconvenient than to the Senate. But the ground of this exemption is denied as unfounded. For examine, *e. g.*, the treaty of commerce with France, and it will be found that out of thirty-one articles, there are not more than small portions of two or three of them which would not still remain as subjects of treaties, untouched by these exceptions.

Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the Legislature alone can declare them infringed and rescinded. This was accordingly the process adopted in the case of France, 1798.

It has been the usage of the Executive, when it communicates a treaty to the Senate for their ratification, to communicate also the correspondence of the negotiations. This having been omitted in the case of the Prussian treaty, was asked by a vote of the House of February 12, 1800, and was obtained. And in December, 1800, the Convention of that year, between the United States and France, with the report of the negotiations by the Envoys, but not their instructions, being laid before the Senate, the instructions were asked for, and communicated by the President.

The mode of voting on questions of ratification is by nominal call.

Resolved, as a standing rule, That whenever a treaty shall be laid before the Senate for ratification, it shall be read a first time for information only; when no motion to reject, ratify, or modify the whole or any part, shall be received.

That its second reading shall be for consideration; and on a subsequent day, when it shall be taken up as in a committee of the whole, and every one shall be free to move a question on any particular article in this form: "Will the Senate advise and consent to the ratification of this article?" or to propose amendments thereto, either by inserting or leaving out words, in which last case the question shall be, "Shall the words stand part of the article?" And in every of the said cases, the concurrence of two-thirds of the Senators present shall be required to decide affirmatively. And when through the whole, the proceedings shall be stated to the House, and questions be again severally put thereon for confirmation, or new ones proposed, requiring in like manner a concurrence of two-thirds for whatever is retained or inserted.

That the votes so confirmed shall, by the House or a committee thereof, be reduced into the form of a ratification with or without modifications, as may have

been decided, and shall be proposed on a subsequent day, when every one shall again be free to move amendments, either by inserting or leaving out words; in which last case the question shall be, "Shall the words stand part of the resolution?" And in both cases the concurrence of two-thirds shall be requisite to carry the affirmative; as well as on the final question to advise and consent to the ratification in the form agreed to.—*Rule of Jan.* 6, 1801.

Resolved, That when any question may have been decided by the Senate, in which two-thirds of the members present are necessary to carry the affirmative, any member who voted on that side which prevailed in the question may be at liberty to move for a reconsideration; and a motion for reconsideration shall be decided by a majority of votes.—*Rule of Feb.* 3, 1801.

SECTION LIII.

IMPEACHMENT.

The House of Representatives shall have the sole power of impeachment.—*Const. U. S.* Art. I. Sec. 3.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States. But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.—*Const. U. S.* Art. I. Sec. 3.

The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.—*Const. U. S.* Art. II. Sec. 4.

The trial of crimes, except in cases of impeachment, shall be by jury.—*Const. U. S.* Art. III. Sec. 2.

These are the provisions of the Constitution of the United States on the subject of impeachments. The following is a sketch on some of the principles and practices of England on the same subject.

Jurisdiction.—The Lords cannot impeach any to themselves, nor join in the accusation, because they are judges.—*Seld. Judic. in Parl.* 12, 63. Nor can they proceed against a commoner, but on complaint of the Commons.—*Ib.* 84. The Lords may not, by the law, try a commoner for capital offence, on the

information of the King, or a private person; because the accused is entitled to a trial by his peers generally; but on accusation by the House of Commons, they may proceed against the delinquent, of whatsoever degree, and whatsoever be the nature of the offence; for there they do not assume to themselves trial at common law. The Commons are then instead of a jury, and the judgment is given on their demand, which is instead of a verdict. So the Lords do only judge but not try the delinquent.—*Ib.* 6, 7. But Wooddeson denies that a commoner can now be charged capitally before the Lords, even by the Commons; and cites Fitzharris's case, 1681, impeached of high treason, where the Lords remitted the prosecution to the inferior court.—8 *Grey's Deb.* 325, 6, 7; 2 *Wooddeson*, 601, 576; 3 *Seld.* 1610, 1619, 1641; 4 *Black.* 257; 3 *Seld.* 1604. 1618, 9. 1656.

Accusation.—The Commons, as the grand inquest of the nation, become suitors for penal justice.—2 *Woodd.* 597; 6 *Grey*, 356. The general course is to pass a resolution, containing a criminal charge against the supposed delinquent, and then to direct some member to impeach him by oral accusation, at the bar of the House of Lords, in the name of the Commons. The person signifies, that the articles will be exhibited, and desires that the delinquent may be sequestered from his seat, or be committed, or that the Peers will take order for his appearance.—*Sachev. Trial.* 325: 2 *Woodd.* 602, 605; *Lord's Jour.* 3 June, 1701; 1 *Wms.* 616; *Grey*, 324.

Process.—If the party do not appear, proclamations are to be issued giving him a day to appear. On their return they are strictly examined. If any error be found in them, a new proclamation issues, giving a short day. If he appear not, his goods may be arrested, and they may proceed.—*Seld. Jud.* 98, 99.

Articles.—The accusation (article) of the Commons, is substituted in place of an indictment. Thus, by the usage of Parliament, an impeachment for writing or speaking the particular words, need not be specified.—*Sach. Tr.* 325; 2 *Woodd.* 602, 605; *Lords' Journ.* 3 June, 1701; 1 *Wms.* 616.

Appearance—If he appears, and the case be capital, he an-

swers in custody; though not if the accusation be general. He is not to be committed but on special accusations. If it be for a misdemeanor only, he answers a Lord in his place, a Commoner at the bar, and not in custody, unless, on the answer, the Lords find cause to commit him till he find sureties to attend, and lest he should fly.—*Seld. Jud.* 98, 99. A copy of the articles is given him, and a day fixed for his answer.—*T. Ray;* 1 *Rushw.* 268; *Fost.* 232. 1 *Clar. Hist. of the Reb.* 379. On a misdemeanor, his appearance may be in person, or he may answer in writing, or by attorney.—*Seld. Jud.* 100. The general rule on accusation for a misdemeanor is, that in such a state of liberty or restraint as the party is when the Commons complain of him, in such he is to answer. *Seld. Jud.* 101. If previously committed by the Commons, he answers as a prisoner. But this may be called, in some sort, *judicium parium suorum.*—*Seld. Jud.* In misdemeanors, the party has a right to counsel by the common law; but not in capital cases.—*Jud. Seld.* 102–5.

Answer.—The answer need not observe great strictness of form. He may plead guilty as to part, and defend as to the residue: or, saving all exceptions, deny the whole, or give a particular answer to each article separately.—1 *Rush.* 274: 2 *Rush.* 1374: 12 *Parl. Hist.* 442: 3 *Lords' journ.* 13 Nov. 1643: 2 *Wood.* 607. But he cannot plead a pardon in bar to the impeachment.—2 *Wood.* 618; 2 *St. Tr.* 735.

Replication, rejoinder, &c.—There may be a replication, rejoinder, &c.—*Seld Jud.* 114; 8 *Grey's Deb.* 233; *Such. Tr.* 15; *Journ. House of Commons,* 6 March, 1640, 1.

Witnesses.—The practice is to swear the witnesses in open House, and then examine them there: or a committee may be named, who shall examine them in committee either on interrogatories agreed on in the House, or such as the committee, in their discretion, shall demand.—*Seld, Jud.* 120. 123.

Jury.—In the case of Alice Pierce, 1 *R.* 2. a jury was empannelled for her trial before a committee.—*Seld. Jud.* 123. But this was on a complaint, not an impeachment by the Commons.—*Seld. Jud.* 163. It must also have been for a misdemeanor only, as the Lords Spiritual sat in the case, which they

do on misdemeanors, but not in capital cases.—*Seld. Jud.* 148. The judgment was a forfeiture of all her lands and goods.—*Seld. Jud.* 188. This, Selden says, is the only jury he finds recorded in Parliament for misdemeanors; but he makes no doubt if the delinquent doth put himself on the trial of his country, a jury ought to be empannelled: and he adds, that it is not so on impeachment by the Commons; for they are in *oco proprio*, and here no jury ought to be empannelled.—*Ib.* 124. The Lord Berkley, 6 *E.* 3, was arranged for the murder of, *L.* 2, on an information on the part of the King, and not on impeachment of the Commons; for then they had been *patria sua*. He waived his peerage, and was tried by a jury of Gloucestershire and Warwickshire.—*Ib.* 125. In one, 1 *H.* 7, the Common protest that they are not to be considered as parties to any judgment given, or hereafter to be given in Parliament.—*Ib.* 133. They have been generally, and more justly considered, as is before stated, as the grand jury. For the conceit of Selden is certainly not accurate, that they are the *patria sua* of the accused, and that the Lords do only judge, but not try. It is undeniable that they do try. For they examine witnesses as to the facts, and acquit or condemn according to their own belief of them. And Lord Hale says, "the Peers are judges of law as well as of fact."—2 *Hale, P. C.* 275. Consequently of fact as well as of law.

Presence of Commons.—The Commons are to be present at the examination of witnesses.—*Seld. Jud.* 121. Indeed, they are to attend throughout, either as a committee of the whole House; or otherwise, at discretion, appoint managers to conduct the proofs.—*Rushw. Tr. of Straff.* 37; *Com. journ.* 4 Feb. 1709. 10; 2 *Wood.* 614. And judgment is not to be given till they demand it.—*Seld. Jud.* 121. But they are not to be present on impeachment when the Lords consider of the answer or proofs, and determine of their judgment. Their presence, however, is necessary at the answer and judgment in cases capital. —*Ib.* 58, 159; as well as not capital, 162. The Lords debate the judgment among themselves. Then the vote is first taken on the question of guilty or not guilty; and if they convict, the

question, or particular sentence, is out of that which seemeth to be most generally agreed on.—*Seld. Jud.* 167; 2 *Wood.* 612.

Judgment.—Judgments in Parliament, for death, have been strictly guided *per legem terræ*, which they cannot alter; and not at all according to their discretion. They can neither admit any part of the legal judgment, nor add to it. Their sentence must be *secundum, non ultra legem.*—*Seld. Jud.* 168, 169, 170, 171. This trial, though it varies in external ceremony, yet differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments, prevail. For impeachments were not framed to alter the law, but to carry it into more effectual execution against two powerful delinquents. The judgment, therefore, is to be such as is warranted by legal principles or precedents.—6 *Stra. Tr.* 14; 2 *Wood.* 611. The Chancellor gives judgments in misdemeanors; the Lord High Steward, formerly, in cases of life and death.—*Seld. Jud.* 180. But now the Steward is deemed not necessary.—*Fost.* 144; 1 *Woodd.* 613. In misdemeanors, the greatest corporal punishment hath been imprisonment.—*Seld. Jud.* 184. The King's assent is necessary in capital judgments, (but 2 *Woodd.* 614. contra.) but not in misdemeanors.—*Seld. Jud.* 136.

Continuance.—An impeachment is not discontinued by the dissolution of Parliament; but may be resumed by the new Parliament.—*T. Ray.* 383; 5 *Com. jour.* 23 Dec. 1790; *Lord's jour.* May 16, 1791; 2 *Wood.* 618.

PART V.

THE ANAS.

*Explanation of the three volumes bound in marbled paper.**

In these three volumes will be found copies of the official opinions† given in writing by me to General Washington, while I was Secretary of State, with sometimes the documents belonging to the case. Some of these are the rough draughts, some press copies, some fair ones. In the earlier part of my acting in that office, I took no other note of the passing transactions; but after awhile, I saw the importance of doing it in aid of my memory. Very often, therefore, I made memorandums on loose scraps of

*[These are the volumes containing the celebrated Anas, up to the time of the author's retirement from the Secretaryship of State. Some of his friends have regretted that they were ever published. However that may be, they *have* been published, and it was manifestly the purpose of Mr. Jefferson that they should be. Late in life, "when the passions of the times had passed away," he carefully revised them for publication. "At this day," he says, "after the lapse of twenty-five years, or more, from their dates, I have given to the whole a calm revisal, when the passions of the times are passed away, and the reasons of the transactions act alone upon the judgment. Some of the informations I had recorded, are now cut out from the rest, because I have seen that they were incorrect, or doubtful, or merely personal or private, with which we have nothing to do. I should, perhaps, not have thought the rest worth preserving, but for their testimony against the only history of that period, which pretends to have been compiled from authentic and unpublished documents." Under these circumstances, the Editor has not felt himself at liberty to exclude the Anas from a publication professing to be a complete edition of the writings of Jefferson. They are accordingly inserted just in the form in which he left them after his last revisal.]—Ed.

† The opinions here alluded to will be found in Book III., devoted to Official Papers.—Ed.

paper, taken out of my pocket in the moment, and laid by to be copied fair at leisure, which, however, they hardly ever were. These scraps, therefore, ragged, rubbed, and scribbled as they were, I had bound with the others by a binder who came into my cabinet, did it under my own eye, and without the opportunity of reading a single paper. At this day, after the lapse of twenty-five years, or more, from their dates, I have given to the whole a calm revisal, when the passions of the time are passed away, and the reasons of the transactions act alone on the judgment. Some of the informations I had recorded, are now cut out from the rest, because I have seen that they were incorrect, or doubtful, or merely personal or private, with which we have nothing to do. I should perhaps have thought the rest not worth preserving, but for their testimony against the only history of that period, which pretends to have been compiled from authentic and unpublished documents.

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But a short review of facts * * * will show, that the contests of that day were contests of principle, between the advocates of republican, and those of kingly government, and that had not the former made the efforts they did, our government would have been, even at this early day, a very different thing from what the successful issue of those efforts have made it.

The alliance between the States under the old Articles of Confederation, for the purpose of joint defence against the aggression of Great Britain, was found insufficient, as treaties of alliance generally are, to enforce compliance with their mutual stipulations; and these, once fulfilled, that bond was to expire of itself, and each State to become sovereign and independent in all things. Yet it could not but occur to every one, that these separate independencies, like the petty States of Greece, would be eternally at war with each other, and would become at length the mere partisans and satellites of the leading powers of Europe. All then must have looked forward to some further bond of union, which would insure eternal peace, and a political system of our own, independent of that of Europe. Whether all should be consolidated into a single government, or each remain independ-

ent as to internal matters, and the whole form a single nation as to what was foreign only, and whether that national government should be a monarchy or republic, would of course divide opinions, according to the constitutions, the habits, and the circumstances of each individual. Some officers of the army, as it has always been said and believed, (and Steuben and Knox have ever been named as the leading agents,) trained to monarchy by military habits, are understood to have proposed to General Washington to decide this great question by the army before its disbandment, and to assume himself the crown on the assurance of their support. The indignation with which he is said to have scouted this parricide proposition was equally worthy of his virtue and wisdom. The next effort was, (on suggestion of the same individuals, in the moment of their separation,) the establishment of an hereditary order under the name of the Cincinnati, ready prepared by that distinction to be ingrafted into the future frame of government, and placing General Washington still at their head. The General wrote to me on this subject, while I was in Congress at Annapolis, and an extract from my letter is inserted in 5th Marshall's history, page 28. He afterwards called on me at that place on his way to a meeting of the society, and after a whole evening of consultation, he left that place fully determined to use all his endeavors for its total suppression. But he found it so firmly riveted in the affections of the members, that, strengthened as they happened to be by an adventitious occurrence of the moment, he could effect no more than the abolition of its hereditary principle. He called again on his return, and explained to me fully the opposition which had been made, the effect of the occurrence from France, and the difficulty with which its duration had been limited to the lives of the present members. Further details will be found among my papers, in his and my letters, and some in the *Encyclopedie Methodique et Dictionnaire d'Economie Politique*, communicated by myself to M. Meusnier, its author, who had made the establishment of this society the ground, in that work, of a libel on our country.

The want of some authority which should procure justice to the public creditors, and an observance of treaties with foreign

nations, produced, some time after, the call of a convention of the States at Annapolis. Although, at this meeting, a difference of opinion was evident on the question of a republican or kingly government, yet, so general through the States was the sentiment in favor of the former, that the friends of the latter confined themselves to a course of obstruction only, and delay, to everything proposed; they hoped, that nothing being done, and all things going from bad to worse, a kingly government might be usurped, and submitted to by the people, as better than anarchy and wars internal and external, the certain consequences of the present want of a general government. The effect of their manœuvres, with the defective attendance of Deputies from the States, resulted in the measure of calling a more general convention, to be held at Philadelphia. At this, the same party exhibited the same practices, and with the same views of preventing a government of concord, which they foresaw would be republican, and of forcing through anarchy their way to monarchy. But the mass of that convention was too honest, too wise, and too steady, to be baffled and misled by their manœuvres. One of these was a form of government proposed by Colonel Hamilton, which would have been in fact a compromise between the two parties of royalism and republicanism. According to this, the executive and one branch of the legislature were to be during good behavior, *i. e.* for life, and the governors of the States were to be named by these two permanent organs. This, however, was rejected; on which Hamilton left the convention, as desperate, and never returned again until near its final conclusion. These opinions and efforts, secret or avowed, of the advocates for monarchy, had begotten great jealousy through the States generally; and this jealousy it was which excited the strong opposition to the conventional constitution; a jealousy which yielded at last only to a general determination to establish certain amendments as barriers against a government either monarchical or consolidated. In what passed through the whole period of these conventions, I have gone on the information of those who were members of them, being absent myself on my mission to France.

I returned from that mission in the first year of the new government, having landed in Virginia in December, 1789, and proceeded to New York in March, 1790, to enter on the office of Secretary of State. Here, certainly, I found a state of things which, of all I had ever contemplated, I the least expected. I had left France in the first year of her revolution, in the fervor of natural rights, and zeal for reformation. My conscientious devotion to these rights could not be heightened, but it had been aroused and excited by daily exercise. The President received me cordially, and my colleagues and the circle of principal citizens apparently with welcome. The courtesies of dinner parties given me, as a stranger newly arrived among them, placed me at once in their familiar society. But I cannot describe the wonder and mortification with which the table conversations filled me. Politics were the chief topic, and a preference of kingly over republican government was evidently the favorite sentiment. An apostate I could not be, nor yet a hypocrite; and I found myself, for the most part, the only advocate on the republican side of the question, unless among the guests there chanced to be some member of that party from the legislative Houses. Hamilton's financial system had then passed. It had two objects; 1st, as a puzzle, to exclude popular understanding and inquiry; 2d, as a machine for the corruption of the legislature; for he avowed the opinion, that man could be governed by one of two motives only, force or interest; force, he observed, in this country was out of the question, and the interests, therefore, of the members must be laid hold of, to keep the legislative in unison with the executive. And with grief and shame it must be acknowledged that his machine was not without effect; that even in this, the birth of our government, some members were found sordid enough to bend their duty to their interests, and to look after personal rather than public good.

It is well known that during the war the greatest difficulty we encountered was the want of money or means to pay our soldiers who fought, or our farmers, manufacturers and merchants, who furnished the necessary supplies of food and clothing for them. After the expedient of paper money had exhausted it-

self, certificates of debt were given to the individual creditors, with assurance of payment so soon as the United States should be able. But the distresses of these people often obliged them to part with these for the half, the fifth, and even a tenth of their value; and speculators had made a trade of cozening them from the holders by the most fraudulent practices, and persuasions that they would never be paid. In the bill for funding and paying these, Hamilton made no difference between the original holders and the fraudulent purchasers of this paper. Great and just repugnance arose at putting these two classes of creditors on the same footing, and great exertions were used to pay the former the full value, and to the latter, the price only which they had paid, with interest, But this would have prevented the game which was to be played, and for which the minds of greedy members were already tutored and prepared. When the trial of strength on these several efforts had indicated the form in which the bill would finally pass, this being known within doors sooner than without, and especially, than to those who were in distant parts of the Union, the base scramble began. Couriers and relay horses by land, and swift sailing pilot boats by sea, were flying in all directions. Active partners and agents were associated and employed in every State, town, and country neighborhood, and this paper was bought up at five shillings, and even as low as two shillings in the pound, before the holder knew that Congress had already provided for its redemption at par. Immense sums were thus filched from the poor and ignorant, and fortunes accumulated by those who had themselves been poor enough before. Men thus enriched by the dexterity of a leader, would follow of course the chief who was leading them to fortune, and become the zealous instruments of all his enterprises.

This game was over, and another was on the carpet at the moment of my arrival; and to this I was most ignorantly and innocently made to hold the candle. This fiscal maneuvre is well known by the name of the Assumption. Independently of the debts of Congress, the States had during the war contracted separate and heavy debts; and Massachusetts particularly, in an absurd attempt, absurdly conducted, on the British post of Penob-

scott: and the more debt Hamilton could rake up, the more plunder for his mercenaries. This money, whether wisely or foolishly spent, was pretended to have been spent for general purposes, and ought, therefore, to be paid from the general purse. But it was objected, that nobody knew what these debts were, what their amount, or what their proofs. No matter; we will guess them to be twenty millions. But of these twenty millions, we do not know how much should be reimbursed to one State, or how much to another. No matter; we will guess. And so another scramble was set on foot among the several States, and some got much, some little, some nothing. But the main object was obtained, the phalanx of the Treasury was reinforced by additional recruits. This measure produced the most bitter and angry contest ever known in Congress, before or since the Union of the States. I arrived in the midst of it. But a stranger to the ground, a stranger to the actors on it, so long absent as to have lost all familiarity with the subject, and as yet unaware of its object, I took no concern in it. The great and trying question, however, was lost in the House of Representatives. So high were the feuds excited by this subject, that on its rejection business was suspended. Congress met and adjourned from day to day without doing any thing, the parties being too much out of temper to do business together. The eastern members particularly, who, with Smith from South Carolina, were the principal gamblers in these scenes, threatened a secession and dissolution. Hamilton was in despair. As I was going to the President's one day, I met him in the street. He walked me backwards and forwards before the President's door for half an hour. He painted pathetically the temper into which the legislature had been wrought; the disgust of those who were called the creditor States; the danger of the *secession* of their members, and the separation of the States. He observed that the members of the administration ought to act in concert; that though this question was not of my department, yet a common duty should make it a common concern; that the President was the centre on which all administrative questions ultimately rested, and that all of us should rally around him, and support, with joint efforts, measures approved by

him; and that the question having been lost by a small majority only, it was probable that an appeal from me to the judgment and discretion of some of my friends, might effect a change in the vote, and the machine of government, now suspended, might be again set into motion. I told him that I was really a stranger to the whole subject; that not having yet informed myself of the system of finances adopted, I knew not how far this was a necessary sequence; that undoubtedly, if its rejection endangered a dissolution of our Union at this incipient stage, I should deem that the most unfortunate of all consequences, to avert which all partial and temporary evils should be yielded. I proposed to him, however, to dine with me the next day, and I would invite another friend or two, bring them into conference together, and I thought it impossible that reasonable men, consulting together coolly, could fail, by some mutual sacrifices of opinion, to form a compromise which was to save the Union. The discussion took place. I could take no part in it but an exhortatory one, because I was a stranger to the circumstances which should govern it. But it was finally agreed, that whatever importance had been attached to the rejection of this proposition, the preservation of the Union and of concord among the States was more important, and that therefore it would be better that the vote of rejection should be rescinded, to effect which, some members should change their votes. But it was observed that this pill would be peculiarly bitter to the southern States, and that some concomitant measure should be adopted, to sweeten it a little to them. There had before been propositions to fix the seat of government either at Philadelphia, or at Georgetown on the Potomac; and it was thought that by giving it to Philadelphia for ten years, and to Georgetown permanently afterwards, this might, as an anodyne, calm in some degree the ferment which might be excited by the other measure alone. So two of the Potomac members (White and Lee, but White with a revulsion of stomach almost convulsive,) agreed to change their votes, and Hamilton undertook to carry the other point. In doing this, the influence he had established over the eastern members, with the agency of Robert Morris with those of the middle States, effected his side of the engagement; and so the

Assumption was passed, and twenty millions of stock divided among favored States, and thrown in as a pabulum to the stock-jobbing herd. This added to the number of votaries to the Treasury, and made its chief the master of every vote in the legislature, which might give to the government the direction suited to his political views.

I know well, and so must be understood, that nothing like a majority in Congress had yielded to this corruption. Far from it. But a division, not very unequal, had already taken place in the honest part of that body, between the parties styled republican and federal. The latter being monarchists in principle, adhered to Hamilton of course, as their leader in that principle, and this mercenary phalanx added to them, insured him always a majority in both Houses: so that the whole action of legislature was now under the direction of the Treasury. Still the machine was not complete. The effect of the funding system, and of the Assumption, would be temporary; it would be lost with the loss of the individual members whom it has enriched, and some engine of influence more permanent must be contrived, while these myrmidons were yet in place to carry it through all opposition. This engine was the Bank of the United States. All that history is known, so I shall say nothing about it. While the government remained at Philadelphia, a selection of members of both Houses were constantly kept as directors who, on every question interesting to that institution, or to the views of the federal head, voted at the will of that head; and, together with the stock-holding members, could always make the federal vote that of the majority. By this combination, legislative expositions were given to the constitution, and all the administrative laws were shaped on the model of England, and so passed. And from this influence we were not relieved, until the removal from the precincts of the bank, to Washington.

Here then was the real ground of the opposition which was made to the course of administration. Its object was to preserve the legislature pure and independent of the executive, to restrain the administration to republican forms and principles, and not permit the constitution to be construed into a monarchy, and to

be warped, in practice, into all the principles and pollutions of their favorite English model. Nor was this an opposition to General Washington. He was true to the republican charge confided to him; and has solemnly and repeatedly protested to me, in our conversations, that he would lose the last drop of his blood in support of it; and he did this the oftener and with the more earnestness, because he knew my suspicions of Hamilton's designs against it, and wished to quiet them. For he was not aware of the drift, or of the effect of Hamilton's schemes. Unversed in financial projects and calculations and budgets, his approbation of them was bottomed on his confidence in the man.

But Hamilton was not only a monarchist, but for a monarchy bottomed on corruption. In proof of this, I will relate an anecdote, for the truth of which I attest the God who made me. Before the President set out on his southern tour in April, 1791, he addressed a letter of the fourth of that month, from Mount Vernon, to the Secretaries of State, Treasury and War, desiring that if any serious and important cases should arise during his absence, they would consult and act on them. And he requested that the Vice President should also be consulted. This was the only occasion on which that officer was ever requested to take part in a cabinet question. Some occasion for consultation arising, I invited those gentlemen (and the Attorney General, as well as I remember,) to dine with me, in order to confer on the subject. After the cloth was removed, and our question agreed and dismissed, conversation began on other matters, and by some circumstance, was led to the British constitution, on which Mr. Adams observed, "purge that constitution of its corruption, and give to its popular branch equality of representation, and it would be the most perfect constitution ever devised by the wit of man." Hamilton paused and said, "purge it of its corruption, and give to its popular branch equality of representation, and it would become an *impracticable* government: as it stands at present, with all its supposed defects, it is the most perfect government which ever existed." And this was assuredly the exact line which separated the political creeds of these two gentlemen. The one was for two hereditary branches and an honest elective one: the

other, for an hereditary King, with a House of Lords and Commons corrupted to his will, and standing between him and the people. Hamilton was, indeed, a singular character. Of acute understanding, disinterested, honest, and honorable in all private transactions, amiable in society, and duly valuing virtue in private life, yet so bewitched and perverted by the British example, as to be under thorough conviction that corruption was essential to the government of a nation. Mr. Adams had originally been a republican. The glare of royalty and nobility, during his mission to England, had made him believe their fascination a necessary ingredient in government; and Shay's rebellion, not sufficiently understood where he then was, seemed to prove that the absence of want and oppression, was not a sufficient guarantee of order. His book on the American constitutions having made known his political bias, he was taken up by the monarchical federalists in his absence, and on his return to the United States, he was by them made to believe that the general disposition of our citizens was favorable to monarchy. He here wrote his Davila, as a supplement to a former work, and his election to the Presidency confirmed him in his errors. Innumerable addresses too, artfully and industriously poured in upon him, deceived him into a confidence that he was on the pinnacle of popularity, when the gulf was yawning at his feet, which was to swallow up him and his deceivers. For when General Washington was withdrawn, these *energumeni* of royalism, kept in check hitherto by the dread of his honesty, his firmness, his patriotism, and the authority of his name, now mounted on the car of State and free from control, like Phaeton on that of the sun, drove headlong and wild, looking neither to right nor left, nor regarding anything but the objects they were driving at; until, displaying these fully, the eyes of the nation were opened, and a general disbandment of them from the public councils took place.

Mr. Adams, I am sure, has been long since convinced of the treacheries with which he was surrounded during his administration. He has since thoroughly seen, that his constituents were devoted to republican government, and whether his judgment is

re-settled on its ancient basis, or not, he is conformed as a good citizen to the will of the majority, and would now, I am persuaded, maintain its republican structure with the zeal and fidelity belonging to his character. For even an enemy has said, "he is always an honest man, and often a great one." But in the fervor of the fury and follies of those who made him their stalking horse, no man who did not witness it can form an idea of their unbridled madness, and the terrorism with which they surrounded themselves. The horrors of the French revolution, then raging, aided them mainly, and using that as a raw head and bloody bones, they were enabled by their stratagems of X. Y. Z. in which ******** was a leading mountebank, their tales of tub-plots, ocean massacres, bloody buoys, and pulpit lyings and slanderings, and maniacal ravings of their Gardeners, their Osgoods and parishes, to spread alarm into all but the firmest breasts. Their Attorney General had the impudence to say to a republican member, that deportation must be resorted to, of which, said he, "you republicans have set the example;" thus daring to identify us with the murderous Jacobins of France. These transactions, now recollected but as dreams of the night, were then sad realities; and nothing rescued us from their liberticide effect, but the unyielding opposition of these firm spirits who sternly maintained their post in defiance of terror, until their fellow citizens could be aroused to their own danger, and rally and rescue the standard of the constitution. This has been happily done. Federalism and monarchism have languished from that moment, until their treasonable combinations with the enemies of their country during the late war, their plots of dismembering the Union, and their Hartford convention, have consigned them to the tomb of the dead; and I fondly hope, "we may now truly say, we are all republicans, all federalists," and that the motto of the standard to which our country will forever rally, will be, "federal union, and republican government;" and sure I am we may say, that we are indebted for the preservation of this point of rallliance, to that opposition of which so injurious an idea is so artfully insinuated and excited in this history.

Much of this relation is notorious to the world; and many in-

timate proofs of it will be found in these notes. From the moment where they end, of my retiring from the administration, the federalists* got unchecked hold of General Washington. His memory was already sensibly impaired by age, the firm tone of mind for which he had been remarkable, was beginning to relax, its energy was abated, a listlessness of labor, a desire for tranquillity had crept on him, and a willingness to let others act, and even think for him. Like the rest of mankind, he was disgusted with atrocities of the French revolution, and was not sufficiently aware of the difference between the rabble who were used as instruments of their perpetration, and the steady and rational character of the American people, in which he had not sufficient confidence. The opposition too of the republicans to the British treaty, and the zealous support of the federalists in that unpopular but favorite measure of theirs, had made him all their own. Understanding, moreover, that I disapproved of that treaty, and copiously nourished with falsehoods by a malignant neighbor of mine, who ambitioned to be his correspondent, he had become alienated from myself personally, as from the republican body generally of his fellow-citizens; and he wrote the letters to Mr. Adams and Mr. Carroll, over which, in devotion to his imperishable fame, we must forever weep as monuments of mortal decay.

February 4th, 1818.

August the 13th, 1791. Notes of a conversation between Alexander Hamilton and Thomas Jefferson. Th: Jefferson mentioned to him a letter received from John Adams, disavowing Publicola, and denying that he ever entertained a wish to bring this country under an hereditary executive, or introduce an hereditary branch of Legislature, &c. See his letter. Alexander Hamilton condemning Mr. Adams' writings, and most particularly Davila, as having a tendency to weaken the present government, declared in substance as follows: "I own it is my own

* See conversation with General Washington, October 1, 1792.

opinion, though I do not publish it in Dan or Bersheba, that the present government is not that which will answer the ends of society, by giving stability and protection to its rights, and that it will probably be found expedient to go into the British form. However, since we have undertaken the experiment, I am for giving it a fair course, whatever my expectations may be. The success, indeed, so far, is greater than I had expected, and therefore, at present, success seems more possible than it had done heretofore, and there are still other and other stages of improvement which, if the present does not succeed, may be tried, and ought to be tried, before we give up the republican form altogether; for that mind must be really depraved, which would not prefer the equality of political rights, which is the foundation of pure republicanism, if it can be obtained consistently with order. Therefore, whoever by his writings disturbs the present order of things, is really blameable, however pure his intentions may be, and he was sure Mr. Adams' were pure." This is the substance of a declaration made in much more lengthy terms, and which seemed to be more formal than usual for a private conversation between two, and as if intended to qualify some less guarded expressions which had been dropped on former occasions. Th: Jefferson has committed it to writing in the moment of A. Hamilton's leaving the room.

December the 25th, 1791, Colonel Gunn (of Georgia) dining the other day with Colonel Hamilton, said to him, with that plain freedom he is known to use, "I wish, Sir, you would advise your friend King, to observe some kind of consistency in his votes. There has been scarcely a question before the Senate on which he has not voted both ways. On the representation bill, for instance, he first voted for the proposition of the Representatives, and ultimately voted against it." "Why," says Colonel Hamilton, "I'll tell you as to that, Colonel Gunn, that it never was intended that bill should pass." Gunn told this to Butler, who told it to Th: Jefferson.

CONVERSATIONS WITH THE PRESIDENT.

February the 28th, 1792. I was to have been with him long enough before three o'clock, (which was the hour and day he received visits,) to have opened to him a proposition for doubling the velocity of the post riders, who now travel about fifty miles a day, and might, without difficulty, go one hundred, and for taking measures (by way bills) to know where the delay is, when there is any. I was delayed by business, so as to have scarcely time to give him the outlines. I run over them rapidly, and observed afterwards, that I had hitherto never spoken to him on the subject of the post office, not knowing whether it was considered as a revenue law, or a law for the general accommodation of the citizens: that the law just passed seemed to have removed the doubt, by declaring that the whole profits of the office should be applied to extending the posts, and that even the past profits should be refunded by the treasury for the same purpose: that I therefore conceive it was now in the department of the Secretary of State: that I thought it would be advantageous so to declare it for another reason, to wit: that the department of the Treasury possessed already such an influence as to swallow up the whole executive powers, and that even the future Presidents (not supported by the weight of character which himself possessed,) would not be able to make head against this department. That in urging this measure I had certainly no personal interest, since, if I was supposed to have any appetite for power, yet as my career would certainly be exactly as short as his own, the intervening time was too short to be an object. My real wish was to avail the public of every occasion, during the residue of the President's period, to place things on a safe footing. He was now called on to attend his company, and he desired me to come and breakfast with him the next morning.

February the 29th. I did so; and after breakfast we retired to his room, and I unfolded my plan for the post office, and after such an approbation of it as he usually permitted himself on the first presentment of any idea, and desiring me to commit it to

writing, he, during that pause of conversation which follows a business closed, said in an affectionate tone, that he had felt much concern at an expression which dropped from me yesterday, and which marked my intention of retiring when he should. That as to himself, many motives obliged him to it. He had, through the whole course of the war, and most particularly at the close of it, uniformly declared his resolution to retire from public affairs, and never to act in any public office; that he had retired under that firm resolution: that the government, however, which had been formed, being found evidently too inefficacious, and it being supposed that his aid was of some consequence towards bringing the people to consent to one of sufficient efficacy for their own good, he consented to come into the convention, and on the same motive, after much pressing, to take a part in the new government, and get it under way. That were he to continue longer, it might give room to say, that having tasted the sweets of office, he could not do without them: that he really felt himself growing old, his bodily health less firm, his memory, always bad, becoming worse, and perhaps the other faculties of his mind showing a decay to others of which he was insensible himself; that this apprehension particularly oppressed him: that he found, moreover, his activity lessened, business therefore more irksome, and tranquility and retirement become an irresistible passion. That however he felt himself obliged, for these reasons, to retire from the government, yet he should consider it as unfortunate, if that should bring on the retirement of the great officers of the government, and that this might produce a shock on the public mind of dangerous consequence.

I told him that no man had ever had less desire of entering into public offices than myself; that the circumstance of a perilous war, which brought every thing into danger, and called for all the services which every citizen could render, had induced me to undertake the administration of the government of Virginia; that I had both before and after refused repeated appointments of Congress to go abroad in that sort of office, which, if I had consulted my own gratification, would almost have been the most agreeable to me; that at the end of two years, I resigned the

government of Virginia, and retired with a firm resolution never more to appear in public life ; that a domestic loss, however, happened, and made me fancy that absence and a change of scene for a time might be expedient for me ; that I therefore accepted a foreign appointment, limited to two years ; that at the close of that, Doctor Franklin having left France, I was appointed to supply his place, which I had accepted, and though I continued in it three or four years, it was under the constant idea of remaining only a year or two longer ; that the revolution in France coming on, I had so interested myself in the event of that, that when obliged to bring my family home, I had still an idea of returning and awaiting the close of that, to fix the era of my final retirement ; that on my arrival here I found he had appointed me to my present office ; that he knew I had not come into it without some reluctance ; that it was, on my part, a sacrifice of inclination to the opinion that I might be more serviceable here than in France, and with a firm resolution in my mind, to indulge my constant wish for retirement at no very distant day ; that when, therefore, I had received his letter, written from Mount Vernon, on his way to Carolina and Georgia, (April the 1st, 1791) and discovered, from an expresston in that, that he meant to retire from the government ere long, and as to the precise epoch there could be no doubt, my mind was immediately made up, to make that the epoch of my own retirement from those labors of which I was heartily tired. That, however, I did not believe there was any idea in any of my brethren in the administration of retiring ; that on the contrary, I had perceived at a late meeting of the trustees of the sinking fund, that the Secretary of the Treasury had developed the plan he intended to pursue, and that it embraced years in its view.

He said, that he considered the Treasury department as a much more limited one, going only to the single object of revenue, while that of the Secretary of State, embracing nearly all the objects of administration, was much more important, and the retirement of the officer therefore, would be more noticed : that though the government had set out with a pretty general good will of the public, yet that symptoms of dissatisfaction had lately

shown themselves far beyond what he could have expected, and to what height these might arise, in case of too great a change in the administration, could not be foreseen.

I told him, that in my opinion, there was only a single source of these discontents. Though they had indeed appeared to spread themselves over the War department also, yet I considered that as an overflowing only from their real channel, which would never have taken place, if they had not first been generated in another department, to wit, that of the Treasury. That a system had there been contrived, for deluging the States with paper money instead of gold and silver, for withdrawing our citizens from the pursuits of commerce, manufactures, buildings, and other branches of useful industry, to occupy themselves and their capitals in a species of gambling, destructive of morality, and which had introduced its poison into the government itself. That it was a fact, as certainly known as that he and I were then conversing, that particular members of the legislature, while those laws were on the carpet, had feathered their nests with paper, had then voted for the laws, and constantly since lent all the energy of their talents, and instrumentality of their offices, to the establishment and enlargement of this system; that they had chained it about our necks for a great length of time, and in order to keep the game in their hands had, from time to time, aided in making such legislative constructions of the constitution, as made it a very different thing from what the people thought they had submitted to; that they had now brought forward a proposition far beyond any one ever yet advanced, and to which the eyes of many were turned, as the decision which was to let us know, whether we live under a limited or an unlimited government. He asked me to what proposition I alluded? I answered, to that in the report on manufactures, which, under color of giving *bounties* for the encouragement of particular manufactures, meant to establish the doctrine, that the power given by the constitution to collect taxes to provide for the *general welfare* of the United States, permitted Congress to take everything under their management which *they* should deem for the *public welfare*, and which is susceptible of the application of money; consequently, that the subsequent enumera-

tion of their powers was not the description to which resort must be had, and did not at all constitute the limits of their authority; that this was a very different question from that of the bank, which was thought an incident to an enumerated power; that, therefore, this decision was expected with great anxiety; that, indeed, I hoped the proposition would be rejected, believing there was a majority in both Houses against it, and that if it should be, it would be considered as a proof that things were returning into their true channel; and that, at any rate, I looked forward to the broad representation which would shortly take place, for keeping the general constitution on its true ground; and that this would remove a great deal of the discontent which had shown itself. The conversation ended with this last topic. It is here stated nearly as much at length as it really was; the expressions preserved where I could recollect them, and their substance always faithfully stated.

March 1, 1792.

On the 2d of January, 1792, Messrs. Fitzsimmons and Gerry (among others) dined with me. These two staid, with a Mr. Larned of Connecticut, after the company was gone. We got on the subject of references by the legislature to the Heads of departments, considering their mischief in every direction. Gerry and Fitzsimmons clearly opposed to them.

Two days afterwards (January the 4th), Mr. Bourne from Rhode Island presented a memorial from his State, complaining of inequality in the Assumption, and moved to refer it to the Secretary of the Treasury. Fitzsimmons, Gerry and others opposed it; but it was carried.

January the 19th. Fitzsimmons moved, that the *President of the United States* be requested to direct the Secretary of the Treasury, to lay before the House information to enable the legislature to judge of the additional revenue necessary on the increase of the military establishment. The House, on debate, struck out the words, "President of the United States."

March the 7th. The subject resumed. An animated debate took place on the tendency of references to the Heads of departments;

and it seemed that a great majority would be against it; the House adjourned. Treasury greatly alarmed, and much industry supposed to be used before next morning, when it was brought on again, and debated through the day, and on the question, the Treasury carried it by thirty-one to twenty-seven; but deeply wounded, since it was seen that all Pennsylvania, except Jacobs, voted against the reference; that Tucker of South Carolina voted for it, and Sumpter absented himself, debauched for the moment only, because of the connection of the question with a further Assumption which South Carolina favored; but showing that they never were to be counted on among the Treasury votes. Some others absented themselves. Gerry changed sides. On the whole, it showed that Treasury influence was tottering.

Committed to writing this 10th of March, 1792.

March the 11th, 1792. Consulted verbally by the President, on whom a committee of the Senate (Izard, Morris, and King) are to wait to-morrow morning, to know whether he will think it proper to redeem our Algerine captives, and make a treaty with the Algerines, on the single vote of the Senate, without taking that of the Representatives.

My opinions run on the following heads:

We must go to Algiers with cash in our hands. Where shall we get it? By loan? By converting money now in the treasury?

Probably a loan might be obtained on the President's authority; but as this could not be repaid without a subsequent act of legislature, the Representatives might refuse it. So if money in the treasury be converted, they may refuse to sanction it.

The subsequent approbation of the Senate being necessary to validate a treaty, they expect to be consulted beforehand, if the case admits.

So the subsequent act of the Representatives being necessary where money is given, why should not they expect to be consulted in like manner, when the case admits. A treaty is a law of the land. But prudence will point out this difference to be attended to in making them; viz. where a treaty contains such articles only as will go into execution of themselves, or be carried

into execution by the judges, they may be safely made; but where there are articles which require a law to be passed afterwards by the legislature, great caution is requisite.

For example; the consular convention with France required a very small legislative regulation. This convention was unanimously ratified by the Senate. Yet the same identical men threw by the law to enforce it at the last session, and the Representatives at this session have placed it among the laws which they may take up or not, at their own convenience, as if that was a higher motive than the public faith.

Therefore, against hazarding this transaction without the sanction of both Houses.

The President concurred. The Senate express the motive for this proposition, to be a fear that the Representatives would not keep the secret. He has no opinion of the secrecy of the Senate. In this very case, Mr. Izard made the communication to him, sitting next to him at table, on one hand, while a lady (Mrs. McLane) was on his other hand, and the French minister next to her; and as Mr. Izard got on with his communication, his voice kept rising, and his stutter bolting the words out loudly at intervals, so that the minister might hear if he would. He said he had a great mind at one time to have got up, in order to put a stop to Mr. Izard.

March the 11th, 1792. Mr. Sterret tells me, that sitting round a fire the other day with four or five others, [Mr. Smith of South Carolina was one], somebody mentioned that the murderers of Hogeboom, sheriff of Columbia county, New York, were acquitted. "Aye," says Smith, "this is what comes of your damned *trial by jury*."

1791. Towards the latter end of November, Hamilton had drawn Ternant into a conversation on the subject of the treaty of commerce recommended by the National Assembly of France to be negotiated with us, and, as he had no ready instructions on the subject, he led him into a proposal that Ternant should take the thing up as a volunteer with me, that we should arrange

conditions, and let them go for confirmation or refusal. Hamilton communicated this to the President, who came into it, and proposed it to me. I disapproved of it, observing, that such a volunteer project would be binding on us, and not them; that it would enable them to find out how far we would go, and avail themselves of it. However, the President thought it worth trying, and I acquiesced. I prepared a plan of treaty for exchanging the privileges of native subjects, and fixing all duties forever as they now stood. Hamilton did not like this way of fixing the duties, because, he said, many articles here would bear to be raised, and therefore, he would prepare a tariff. He did so, raising duties for the French, from twenty-five to fifty per cent. So they were to give us the privileges of native subjects, and we, as a compensation, were to make them pay higher duties. Hamilton, having made his arrangements with Hammond to pretend that though he had no powers to conclude a treaty of commerce, yet his general commission authorized him to enter into the discussion of one, then proposed to the President at one of our meetings, that the business should be taken up with Hammond in the same informal way. I now discovered the trap which he had laid, by first getting the President into that step with Ternant. I opposed the thing warmly. Hamilton observed, if we did it with Ternant we should also with Hammond. The President thought this reasonable. I desired him to recollect, I had been against it with Ternant, and only acquiesced under his opinion. So the matter went off as to both. His scheme evidently was, to get us engaged first with Ternant, merely that he might have a pretext to engage us on the same ground with Hammond, taking care, at the same time, by an extravagant tariff, to render it impossible we should come to any conclusion with Ternant: probably meaning, at the same time, to propose terms so favorable to Great Britain, as would attach us to that country by treaty. On one of those occasions he asserted, that our commerce with Great Britain and her colonies was put on a much more favorable footing than with France and her colonies. I therefore prepared the tabular comparative view of the footing

of our commerce with those nations, which see among my papers. See also my project of a treaty and Hamilton's tariff.

Committed to writing March the 11th, 1792.

It was observable, that whenever, at any of our consultations, anything was proposed as to Great Britain, Hamilton had constantly ready something which Mr. Hammond had communicated to him, which suited the subject and proved the intimacy of their communications; insomuch, that I believe he communicated to Hammond all our views, and knew from him, in return, the views of the British court. Many evidences of this occurred; I will state some. I delivered to the President my report of instructions for Carmichael and Short, on the subject of navigation, boundary and commerce, and desired him to submit it to Hamilton. Hamilton made several just criticisms on different parts of it. But where I asserted that the United States had no right to alienate an inch of the territory of any State, he attacked and denied the doctrine. See my report, his note, and my answer. A few days after came to hand Kirkland's letter, informing us that the British, at Niagara, expected to run a new line between themselves and us; and the reports of Pond and Stedman, informing us it was understood at Niagara, that Captain Stevenson had been sent here by Simcoe to settle that plan with Hammond. Hence Hamilton's attack of the principle I had laid down, in order to prepare the way for this new line. See minute of March the 9th. Another proof. At one of our consultations, about the last of December, I mentioned that I wished to give in my report on commerce, in which I could not avoid recommending a commercial retaliation against Great Britain. Hamilton opposed it violently: and among other arguments, observed, that it was of more importance to us to have the posts than to commence a commercial war; that this, and this alone, would free us from the expense of the Indian wars; that it would therefore be the height of imprudence in us, while treating for the surrender of the posts, to engage in anything which would irritate them; that if we did so, they would naturally say, "these people mean war, let us therefore hold what we have

in our hands." This argument struck me forcibly, and I said, "if there is a hope of obtaining the posts, I agree it would be imprudent to risk that hope by a commercial retaliation. I will, therefore, wait till Mr. Hammond gives me in his assignment of breaches, and if that gives a glimmering of hope that they mean to surrender the posts, I will not give in my report till the next session." Now, Hammond had received my assignment of breaches on the 15th of December, and about the 22d or 23d had made me an apology for not having been able to send me his counter-assignment of breaches; but in terms which showed I might expect it in a few days. From the moment it escaped my lips in the presence of Hamilton, that I would not give in my report till I should see Hammond's counter-complaint, and judge if there was a hope of the posts, Hammond never said a word to me on any occasion, as to the time he should be ready. At length the President got out of patience, and insisted I should jog him. This I did on the 21st of February, at the President's assembly: he immediately promised I should have it in a few days, and accordingly, on the 5th of March I received it.

Written March the 11th, 1792.

March the 12th, 1792. Sent for by the President, and desired to bring the letter he had signed to the King of France. Went. He said the House of Representatives had, on Saturday, taken up the communication he had made of the King's letter to him, and come to a vote in their own name; that he did not expect this when he sent this message and the letter, otherwise he would have sent the message without the letter, as I had proposed. That he apprehended the legislature would be endeavoring to invade the executive. I told him, I had understood the House had resolved to request him to join their congratulations to his on the completion and acceptance of the constitution; on which part of the vote, there were only two dissentients, (Barnwell and Benson;) that the vote was thirty-five to sixteen on that part which expressed an approbation of the wisdom of the constitution; that in the letter he had signed, I had avoided saying a word in approbation of the constitution, not knowing

whether the King, in his heart, approved it. Why, indeed, says he, I begin to doubt very much of the affairs of France; there are papers from London as late as the 10th of January, which represent them as going into confusion. He read over the letter he had signed, found there was not a word which could commit his judgment about the constitution, and gave it to me back again. This is one of many proofs I have had, of his want of confidence in the event of the French revolution. The fact is, that Governeur Morris, a high-flying monarchy man, shutting his eyes and his faith to every fact against his wishes, and believing everything he desires to be true, has kept the President's mind constantly poisoned with his forebodings. That the President wishes the revolution may be established, I believe from several indications. I remember, when I received the news of the King's flight and capture, I first told him of it at his assembly. I never saw him so much dejected by any event in my life. He expressed clearly, on this occasion, his disapprobation of the legislature referring things to the Heads of departments.

Written March the 12th.

Eodem die. Ten o'clock, A.M. The preceding was about nine o'clock. The President now sends Lear to me, to ask what answer he shall give to the committee, and particularly, whether he shall add to it, that, "in making the communication, it was not his expectation that the House should give any answer." I told Mr. Lear that I thought the House had a right, independently of legislation, to express sentiments on other subjects. That when these subjects did not belong to any other branch particularly, they would publish them by their own authority: that in the present case, which respected a foreign nation, the President being the organ of our nation with other nations, the House would satisfy their duty, if, instead of a direct communication, they should pass their sentiments through the President; that if expressing a sentiment were really an invasion of the executive power, it was so faint a one, that it would be difficult to demonstrate it to the public, and to a public partial to the French revolution, and not disposed to consider the approbation of it from

any quarter as improper. That the Senate, indeed, had given many indications of their wish to invade the executive power: the Representatives had done it in one case, which was indeed mischievous and alarming; that of giving orders to the Heads of the executive departments, without consulting the President; but that the late vote for directing the Secretary of the Treasury to report ways and means, though carried, was carried by so small a majority, and with the aid of members so notoriously under a local influence on that question, as to give a hope that the practice would be arrested, and the constitutional course be taken up, of asking the President to have information laid before them. But that in the present instance, it was so far from being clearly an invasion of the executive, and would be so little approved by the general voice, that I could not advise the President to express any dissatisfaction at the vote of the House; and I gave Lear, in writing, what I thought should be his answers. See it.

March the 31st. A meeting at the President's; present, Thomas Jefferson, Alexander Hamilton, Henry Knox and Edmond Randolph. The subject was the resolution of the House of Representatives, of March the 27th, to appoint a committee to inquire into the causes of the failure of the late expedition under Major General St. Clair, with the power to call for such persons, papers and records, as may be necessary to assist their inquiries. The committee had written to Knox for the original letters, instructions, &c. The President had called us to consult, merely because it was the first example, and he wished that so far as it should become a precedent, it should be rightly conducted. He neither acknowledged nor denied, nor even doubted the propriety of what the House were doing, for he had not thought upon it, nor was acquainted with subjects of this kind: he could readily conceive there might be papers of so secret a nature, as that they ought not to be given up. We were not prepared, and wished time to think and inquire.

April the 2d. Met again at the President's, on the same subject. We had all considered, and were of one mind, first, that

the House was an inquest, and therefore might institute inquiries. Second, that it might call for papers generally. Third, that the executive ought to communicate such papers as the public good would permit, and ought to refuse those, the disclosure of which would injure the public: consequently were to exercise a discretion. Fourth, that neither the committee nor House had a right to call on the Head of a department, who and whose papers were under the President alone; but that the committee should instruct their chairman to move the House to address the President. We had principally consulted the proceedings of the Commons in the case of Sir Robert Walpole, 13 Chandler's Debates. For the first point, see pages 161, 170, 172, 183, 187, 207; for the second, pages 153, 173, 207; for the third, 81, 173, appendix page 44; fourth, page 246. Note; Hamilton agreed with us in all these points, except as to the power of the House to call on Heads of departments. He observed, that as to his department, the act constituting it had made it subject to Congress in some points, but he thought himself not so far subject, as to be obliged to produce all the papers they might call for. They might demand secrets of a very mischievous nature. [Here I thought he began to fear they would go on to examining how far their own members and other persons in the government had been dabbling in stocks, banks, &c., and that he probably would choose in this case to deny their power; and, in short, he endeavored to place himself subject to the House, when the executive should propose what he did not like, and subject to the executive, when the House should propose anything disagreeable.] I observed here a difference between the British parliament and our Congress; that the former was a legislature, an inquest, and a council (S. C. page 91.) for the King. The latter was, by the constitution, a legislature and an inquest, but not a council. Finally agreed, to speak separately to the members of the committee, and bring them by persuasion into the right channel. It was agreed in this case, that there was not a paper which might not be properly produced; that copies only should be sent, with an assurance, that if they should desire it, a clerk should attend with the originals to be verified by themselves. The

committee were Fitzsimmons, Steele, Mercer, Clarke, Sedgwick, Giles and Vining.

April the 9th, 1792. The President had wished to redeem our captives at Algiers, and to make peace with them on paying an annual tribute. The Senate were willing to approve this, but unwilling to have the lower House applied to previously to furnish the money; they wished the President to take the money from the treasury, or open a loan for it. They thought that to consult the Representatives on one occasion, would give them a handle always to claim it, and would let them into a participation of the power of making treaties, which the constitution had given exclusively to the President and Senate. They said too, that if the particular sum was voted by the Representatives, it would not be a secret. The President had no confidence in the secresy of the Senate, and did not choose to take money from the treasury or to borrow. But he agreed he would enter into provisional treaties with the Algerines, not to be binding on us till ratified here. I prepared questions for consultation with the Senate, and added, that the Senate were to be apprized, that on the return of the provisional treaty, and after they should advise the ratification, he would not have the seal put to it till the two Houses should vote the money. He asked me, if the treaty stipulating a sum and ratified by him, with the advice of the Senate, would not be good under the constitution, and obligatory on the Representatives to furnish the money? I answered it certainly would, and that it would be the duty of the Representatives to raise the money; but that they might decline to do what was their duty, and I thought it might be incautious to commit himself by a ratification with a foreign nation, where he might be left in the lurch in the execution: it was possible too, to conceive a treaty, which it would not be their duty to provide for. He said that he did not like throwing too much into democratic hands, that if they would not do what the constitution called on them to do, the government would be at an end, and must *then assume another form*. He stopped here; and I kept silence to see whether he would say anything more in the same line, or

add any qualifying expression to soften what he had said; but he did neither.

I had observed, that wherever the agency of either, or both Houses would be requisite subsequent to a treaty, to carry it into effect, it would be prudent to consult them previously, if the occasion admitted. That thus it was, we were in the habit of consulting the Senate previously, when the occasion permitted, because their subsequent ratification would be necessary. That there was the same reason for consulting the lower House previously, where they were to be called on afterwards, and especially in the case of money, as they held the purse strings, and would be jealous of them. However, he desired me to strike out the intimation that the seal would not be put till both Houses should have voted the money.

April the 6th. The President called on me before breakfast, and first introduced some other matter, then fell on the represent ation bill, which he had now in his possession for the tenth day I had before given him my opinion in writing, that the method of apportionment was contrary to the constitution. He agreed that it was contrary to the common understanding of that instrument, and to what was understood at the time by the makers of it; that yet it would bear the construction which the bill put, and he observed that the vote for and against the bill was perfectly geographical, a northern against a southern vote, and he feared he should be thought to be taking side with a southern party. I admitted the motive of delicacy, but that it should not induce him to do wrong; urged the dangers to which the scramble for the fractionary members would always lead. He here expressed his fear that there would, ere long, be a separation of the Union; that the public mind seemed dissatisfied and tending to this. He went home, sent for Randolph, the Attorney General, desired him to get Mr. Madison immediately and come to me, and if we three concurred in opinion that he should negative the bill, he desired to hear nothing more about it, but that we would draw the instrument for him to sign. They came. Our minds had been before made up. We drew

the instrument. Randolph carried it to him, and told him we all concurred in it. He walked with him to the door, and as if he still wished to get off, he said, "and you say you approve of this yourself." "Yes Sir," says Randolph, "I do upon my honor." He sent it to the House of Representatives instantly. A few of the hottest friends of the bill expressed passion, but the majority were satisfied, and both in and out of doors it gave pleasure to have, at length, an instance of the negative being exercised.

Written this the 9th of April.

July the 10th, 1792. My letter of —— to the President, directed to him at Mount Vernon, had not found him there, but came to him here. He told me of this, and that he would take an occasion of speaking with me on the subject. He did so this day He began by observing that he had put it off from day to day because the subject was painful, to wit, his remaining in office, which that letter solicited. He said that the declaration he had made when he quitted his military command, of never again entering into public life, was sincere. That, however, when he was called on to come forward to set the present government in motion, it appeared to him that circumstances were so changed as to justify a change in his resolution: he was made to believe that in two years all would be well in motion, and he might retire. At the end of two years he found some things still to be done. At the end of the third year, he thought it was not worth while to disturb the course of things, as in one year more his office would expire, and he was decided then to retire. Now he was told there would still be danger in it. Certainly, if he thought so, he would conquer his longing for retirement. But he feared it would be said his former professions of retirement had been mere affectation, and that he was like other men, when once in office he could not quit it. He was sensible, too, of a decay of his hearing, perhaps his other faculties might fall off and he not be sensible of it. That with respect to the existing causes of uneasiness, he thought there were suspicions against a particular party, which had been carried a great deal too far;

there might be *desires*, but he did not believe there were *designs* to change the form of government into a monarchy; that there might be a few who wished it in the higher walks of life, particularly in the great cities, but that the main body of the people in the eastern States were as steadily for republicanism as in the southern. That the pieces lately published, and particularly in Freneau's paper, seemed to have in view the exciting opposition to the government. That this had taken place in Pennsylvania as to the excise law, according to information he had received from General Hand. That they tended to produce a separation of the Union, the most dreadful of all calamities, and that whatever tended to produce anarchy, tended, of course, to produce a resort to monarchical government. He considered those papers as attacking him directly, for he must be a fool indeed to swallow the little sugar plums here and there thrown out to him. That in condemning the administration of the government, they condemned him, for if they thought there were measures pursued contrary to his sentiments, they must conceive him too careless to attend to them, or too stupid to understand them. That though, indeed, he had signed many acts which he did not approve in all their parts, yet he had never put his name to one which he did not think, on the whole, was eligible. That as to the bank, which had been an act of so much complaint, until there was some infallible criterion of reason, a difference of opinion must be tolerated. He did not believe the discontents extended far from the seat of government. He had seen and spoken with many people in Maryland and Virginia in his late journey. He found the people contented and happy. He wished, however, to be better informed on this head. If the discontents were more extensive than he supposed, it might be that the desire that he should remain in the government was not general.

My observations to him tended principally to enforce the topics of my letter. I will not, therefore, repeat them, except where they produced observations from him. I said that the two great complaints were, that the national debt was unnecessarily increased, and that it had furnished the means of corrupting both

branches of the legislature; that he must know, and everybody knew, there was a considerable squadron in both, whose votes were devoted to the paper and stock-jobbing interest, that the names of a weighty number were known, and several others suspected on good grounds. That on examining the votes of these men, they would be found uniformly for every Treasury measure, and that as most of these measures had been carried by small majorities, they were carried by these very votes. That, therefore, it was a cause of just uneasiness, when we saw a legislature legislating for their own interests, in opposition to those of the people. He said not a word on the corruption of the legislature, but took up the other point, defended the Assumption, and argued that it had not increased the debt, for that all of it was honest debt. He justified the excise law, as one of the best laws which could be passed, as nobody would pay the tax who did not choose to do it. With respect to the increase of the debt by the Assumption, I observed to him that what was meant and objected to was, that it increased the debt of the General Government, and carried it beyond the possibility of payment. That if the balances had been settled, and the debtor States directed to pay their deficiencies to the creditor States, they would have done it easily, and by resources of taxation in their power, and acceptable to the people; by a direct tax in the south, and an excise in the north. Still, he said, it would be paid by the people. Finding him decided, I avoided entering into argument with him on those points.

Sept. the 30th, 1792. The constitution as agreed to till a fortnight before the Convention rose, was such a one as he would have set his hand and heart to. 1st. The President was to be elected for seven years. Then ineligible for seven years more. 2d. Rotation in the Senate. 3d. A vote of two-thirds in the legislature on particular subjects, and expressly on that of navigation. The three New England States were constantly with us in all questions (Rhode Island not there, and New York seldom), so that it was these three States, with the five southern ones, against Pennsylvania, New Jersey, and Delaware.

With respect to the importation of slaves, it was left to Congress. This disturbed the two southernmost States, who knew that Congress would immediately suppress the importation of slaves. These two States, therefore, struck up a bargain with the three New England States. If they would join to admit slaves for some years, the southernmost States would join in changing the clause which required two-thirds of the legislature in any vote. It was done. These articles were changed accordingly, and from that moment the two southernmost States, and the three northern ones, joined Pennsylvania, New Jersey and Delaware, and made the majority eight to three against us, instead of eight to three for us, as it had been through the whole Convention. Under this coalition, the great principles of the constitution were changed in the last days of the Convention.

Anecdote. Yates, Lawsing and Hamilton represented New York. Yates and Lawsing never voted in one single instance with Hamilton, who was so much mortified at it that he went home. When the season for courts came on, Yates, a judge, and Lawsing, a lawyer, went to attend their courts. Then Hamilton returned.

Anecdote. The constitution as agreed at first was, that amendments might be proposed either by Congress or the legislatures. A committee was appointed to digest and redraw. Governeur Morris and King were of the committee. One morning Governeur Morris moved an instrument for certain alterations (not one-half the members yet come in). In a hurry and without understanding, it was agreed to. The committee reported so that Congress should have the exclusive power of proposing amendments. George Mason observed it on the report, and opposed it. King denied the construction. Mason demonstrated it, and asked the committee by what authority they had varied what had been agreed. Governeur Morris then imprudently got up, and said, by authority of the Convention, and produced the blind instruction before mentioned, which was unknown by one-half of the House, and not till then understood by the other. They then restored it, as it originally stood.

He said he considered Hamilton as having done us more in-

jury than Great Britain and all her fleets and armies. That his (Mason's) plan of settling our debts would have been something in this way. He would have laid as much tax as could be paid without oppressing the people;—particularly he would have laid an impost of about the amount of the first, laid by Congress, but somewhat different in several of its articles. He would have suspended all application of it one year, during which an office should have been open to register unalienated certificates. At the end of the year he would have appropriated his revenue. 1st. To pay the civil list. 2d. The interest of these certificates. 3d. Instalments of the principal. 4th. A surplus to buy up the alienated certificates, still avoiding to make any other provision for these last. By the time the unalienated certificates should have been all paid, he supposed half the alienated ones would have been bought up at market. He would then have proceeded to redeem the residue of them.

Bladensburg, October the 1st, 1792. This morning, at Mount Vernon, I had the following conversation with the President. He opened it by expressing his regret at the resolution in which I appeared so fixed, in the letter I had written him, of retiring from public affairs. He said, that he should be extremely sorry that I should do it, as long as he was in office, and that he could not see where he should find another character to fill my office. That, as yet, he was quite undecided whether to retire in March or not. His inclinations led him strongly to do it. Nobody disliked more the ceremonies of his office, and he had not the least taste or gratification in the execution of its functions. That he was happy at home alone, and that his presence there was now peculiarly called for by the situation of Major Washington, whom he thought irrecoverable, and should he get well, he would remove into another part of the country, which might better agree with him. That he did not believe his presence necessary; that there were other characters who would do the business as well or better. Still, however, if his aid was thought necessary to save the cause to which he had devoted his life principally, he would make the sacrifice of a longer continu-

ance. That he therefore reserved himself for future decision, as his declaration would be in time if made a month before the day of election. He had desired Mr. Lear to find out from conversation, without appearing to make the inquiry, whether any other person would be desired by any body. He had informed him, he judged from conversations that it was the universal desire he should continue, and he believed that those who expressed a doubt of his continuance, did it in the language of apprehension, and not of desire. But this, says he, is only from the north; it may be very different in the south. I thought this meant as an opening to me to say what was the sentiment in the south, from which quarter I came. I told him, that as far as I knew, there was but one voice there, which was for his continuance. That as to myself, I had ever preferred the pursuits of private life to those of public, which had nothing in them agreeable to me. I explained to him the circumstances of the war which had first called me into public life, and those following the war, which had called me from a retirement on which I had determined. That I had constantly kept my eye on my own home, and could no longer refrain from returning to it. As to himself, his presence was important; that he was the only man in the United States who possessed the confidence of the whole; that government was founded in opinion and confidence, and that the longer he remained, the stronger would become the habits of the people in submitting to the government, and in thinking it a thing to be maintained: that there was no other person who would be thought anything more than the head of a party. He then expressed his concern at the difference which he found to subsist between the Secretary of the Treasury and myself, of which he said he had not been aware. He knew, indeed, that there was a marked difference in our political sentiments, but he had never suspected it had gone so far in producing a personal difference, and he wished he could be the mediator to put an end to it. That he thought it important to preserve the check of my opinions in the administration, in order to keep things in their proper channel, and prevent them from going too far. That as to the idea of trans-

forming this government into a monarchy, he did not believe there were ten men in the United States whose opinions were worth attention, who entertained such a thought. I told him there were many more than he imagined. I recalled to his memory a dispute at his own table, a little before we left Philadelphia, between General Schuyler on one side and Pinckney and myself on the other, wherein the former maintained the position, that hereditary descent was as likely to produce good magistrates as election. I told him, that though the people were sound, there were a numerous sect who had monarchy in contemplation; that the Secretary of the Treasury was one of these. That I had heard him say that this constitution was a shilly shally thing, of mere milk and water, which could not last, and was only good as a step to something better. That when we reflected, that he had endeavored in the convention, to make an English constitution of it, and when failing in that, we saw all his measures tending to bring it to the same thing, it was natural for us to be jealous; and particularly, when we saw that these measures had established corruption in the legislature, where there was a squadron devoted to the nod of the Treasury, doing whatever he had directed, and ready to do what he should direct. That if the equilibrium of the three great bodies, legislative, executive and judiciary, could be preserved, if the legislature could be kept independent, I should never fear the result of such a government; but that I could not but be uneasy, when I saw that the executive had swallowed up the legislative branch. He said, that as to that interested spirit in the legislature, it was what could not be avoided in any government, unless we were to exclude particular descriptions of men, such as the holders of the funds, from all office. I told him, there was great difference between the little accidental schemes of self-interest, which would take place in every body of men, and influence their votes, and a regular system for forming a corps of interested persons, who should be steadily at the orders of the Treasury. He touched on the merits of the funding system, observed there was a difference of opinion about it, some thinking it very bad, others very good; that experience was the

only criterion of right which he knew, and this alone would decide which opinion was right. That for himself, he had seen our affairs desperate and our credit lost, and that this was in a sudden and extraordinary degree raised to the highest pitch. I told him, all that was ever necessary to establish our credit, was an efficient government and an honest one, declaring it would sacredly pay our debts, laying taxes for this purpose, and applying them to it. I avoided going further into the subject. He finished by another exhortation to me not to decide too positively on retirement, and here we were called to breakfast.

October the 31st, 1792. I had sent to the President, Viar and Jaudenes's letter of the 29th instant, whereupon he desired a consultation of Hamilton, Knox, E. Randolph, and myself, on these points: 1. What notice was to be taken hereof to Spain? 2. Whether it should make part of the communication to the legislature? I delivered my opinion, that it ought to be communicated to both Houses, because the communications intended to be made, being to bring on the question, whether they would declare war against any, and which of the nations or parts of the nations of Indians to the south, it would be proper this information should be before them, that they might know how far such a declaration would lead them. There might be some who would be for war against the Indians, if it were to stop there, but who would not be for it, if it were to lead to a war against Spain. I thought it should be laid before both Houses, because it concerned the question of declaring war, which was the function equally of both Houses. I thought a simple acknowledgment of the receipt of the letter should be made by me to the Spanish Chargés, expressing that it contained some things very unexpected to us, but that we should refer the whole, as they had proposed, to the negotiators at Madrid. This would secure to us a continuation of the suspension of Indian hostilities, which the Governor of New Orleans said he had brought about till the result of the negotiation at Madrid should be known; would not commit us as to running or not running the line, or imply any admission of doubt about our territorial right; and would avoid a rupture with Spain,

which was much to be desired, while we had similar points to discuss with Great Britain.

Hamilton declared himself the advocate for peace. War would derange our affairs greatly; throw us back many years in the march towards prosperity; be difficult for us to pursue, our countrymen not being disposed to become soldiers; a part of the Union feeling no interest in the war, would with difficulty be brought to exert itself; and we had no navy. He was for everything which would procrastinate the event. A year, even, was a great gain to a nation strengthening as we were. It laid open to us, too, the chapter of accidents, which, in the present state of Europe, was a very pregnant one. That while, however, he was for delaying the event of war, he had no doubt it was to take place between us for the object in question; that jealousy and perseverance were remarkable features in the character of the Spanish government, with respect to their American possessions; that so far from receding as to their claims against us, they had been strengthening themselves in them. He had no doubt the present communication was by authority from the court. Under this impression, he thought we should be looking forward to the day of rupture, and preparing for it. That if we were unequal to the contest ourselves, it behoved us to provide allies for our aid. That in this view, but two nations could be named, France and England. France was too intimately connected with Spain in other points, and of too great mutual value, ever to separate for us. Her affairs too, were such, that whatever issue they had, she could not be in a situation to make a respectable mediation for us. England alone, then, remained. It would not be easy to affect it with her; however, he was for trying it, and for sounding them on the proposition of a defensive treaty of alliance. The inducements to such a treaty, on their part, might be, 1. The desire of breaking up our former connections, which we knew they had long wished. 2. A continuance of the *statu quo* in commerce for ten years, which he believed would be desirable to them. 3. An admission to some navigable part of the Mississippi, by some line drawn from the Lake of the Woods to such navigable part. He had not, he said, examined

the map to see how such a line might be run, so as not to make too great a sacrifice. The navigation of the Mississippi being a joint possession, we might then take measures in concert for the joint security of it. He was, therefore, for immediately sounding them on this subject through our ministers at London; yet so as to keep ourselves unengaged as long as possible, in hopes a favorable issue with Spain might be otherwise effected. But he was for sounding immediately, and for not letting slip an opportunity of securing our object.

E. Randolph concurred, in general, with me. He objected that such an alliance could not be effected without pecuniary consideration probably, which we could not give. And what was to be their aid? If men, our citizens would see their armies get foothold in the United States, with great jealousy; it would be difficult to protect them. Even the French, during the distress of the late war, excited some jealous sentiments.

Hamilton said, money was often, but not always demanded, and the aid he should propose to stipulate would be in ships. Knox *non dissentiente.*

The President said the remedy would be worse than the disease, and stated some of the disagreeable circumstances which would attend our making such overtures.

November, 1792. Hamilton called on me to speak about our furnishing supplies to the French colony of St. Domingo. He expressed his opinion, that we ought to be cautious, and not go too far in our application of money to their use, lest it should not be recognized by the mother country. He did not even think that some kinds of government they might establish could give a sufficient sanction.* I observed, that the National Convention

* There had been a previous consultation at the President's (about the first week in November) on the expediency of suspending payments to France, under her present situation. I had admitted that the late constitution was dissolved by the dethronement of the King; and the management of affairs surviving to the National Assembly only, this was not an integral Legislature, and therefore not competent to give a legitimate discharge for our payments: that I thought, consequently, that none should be made till some legitimate body came into place; and that I should consider the National Convention called, but not met as we

was now met, and would certainly establish a form of government; that as we had recognized the former government because established by authority of the *nation*, so we must recognize any other which should be established by the authority of the nation. He said we had recognized the former, because it contained an important member of the ancient, to wit: the King, and wore the appearance of his consent; but if, in any future form, they should omit the King, he did not know that we could with safety recognize it, or pay money to its order.

November the 19th, 1792. Beckley brings me the pamphlet written by Hamilton, before the war, in answer to Common Sense. It is entitled "Plain Truth." Melancthon Smith sends it to Beckley, and in his letter says, it was not printed in New York by Loudon, because prevented by a mob, and was printed in Philadelphia, and that he has these facts from Loudon.

November the 21st, 1792. Mr. Butler tells me, that he dined last winter with Mr. Campbell from Denmark, in company with Hamilton, Lawrence, Dr. Shippen, T. Shippen, and one other person whom he cannot recollect. That after dinner political principles became the subject of conversation; that Hamilton declared openly, that "there was no stability, no security in any kind of government but a monarchy." That Lawrence took him up, and entered the lists of argument against him; that the dispute continued long, and grew warm, remarkably so as between them; that T. Shippen, at length, joined Lawrence in it; and in fine, that it broke up the company. Butler recommended to the company, that the dispute having probably gone farther than was intended, it ought to be considered as confined to the company.

had yet heard, to be a legitimate body. Hamilton doubted whether it would be a legitimate body, and whether, if the King should be re-established, he might not disallow such payments on good grounds. Knox, for once, dared to differ from Hamilton, and to express, very submissively, an opinion, that a convention named by the whole body of the nation, would be competent to do anything. It ended by agreeing, that I should write to Gouverneur Morris to suspend payment generally, till further orders.

December the 10th, 1792. Present: Alexander Hamilton, General Knox, Edmund Randolph, and Th: Jefferson, at the President's.

It was agreed to reject meeting the Indians at the proposed treaty, rather than to admit a *mediation* by Great Britain; but to admit the presence of Governor Simcoe, not as a *party* (if that was insisted on); and that I should make a verbal communication to Mr. Hammond, in substance, as on the back hereof, which I previously read to the President.

December the 12th. I made the communication to Mr. Hammond. He said the attendance of Governor Simcoe was a circumstance only mentioned by him, but not desired; that he would decline it without difficulty; declared it to be their most ardent wish that peace should take place, for their fur-trade was entirely interrupted; and he urged as decisive proof of the sincerity of their wish,—1st. That they had kept the late Indian council together six weeks at a very great expense, waiting for the Six Nations. 2d. That the Indians at that council were so perfectly satisfied of their desire that they should make peace, that they had not so much as mentioned in council the applying to the British for any supplies. I immediately communicated this to the President.

December the 13th. 1792. The President called on me to see the model and drawings of some mills for sawing stone. After showing them, he in the course of a subsequent conversation asked me if there were not some good manufactories of porcelain in Germany; that he was in want of table china, and had been speaking to Mr. Shaw, who was going to the East Indies to bring him a set, but he found that it would not come till *he should no longer be in a situation to want it.* He took occasion a second time to observe that Shaw said it would be two years at least, before he could have the china here, before which time he said he should be where he should not need it. I think he asked the question about the manufactories in Germany merely to have an indirect opportunity of telling me he meant to retire, and within the limits of two years.

December the 17th. Hammond says the person is here to whom the Six Nations delivered the invitation for Simcoe to attend, who says they insisted on it, and would consider his non-attendance as an evidence that he does not wish for peace; but he says that Simcoe has not the least idea of attending; that this gentleman says we may procure in Upper Canada any quantity of provisions, which the people will salt up express during winter; and that he will return and carry our request whenever we are ready.

Thursday, December the 27th, 1792. I waited on the President on some current business. After this was over, he observed to me, that he thought it was time to endeavor to effect a stricter connection with France, and that Gouverneur Morris should be written to on this subject. He went into the circumstances of dissatisfaction between Spain and Great Britain, and us, and observed, there was no nation on whom we could rely, at all times, but France; and that, if we did not prepare in time some support, in the event of rupture with Spain and England, we might be charged with a criminal negligence. [I was much pleased with the tone of these observations. It was the very doctrine which had been my polar star, and I did not need the successes of the republican arms in France, lately announced to us, to bring me to these sentiments. For it is to be noted, that on Saturday last (the 22d) I received Mr. Short's letters of October the 9th and 12th, with the Leyden gazettes to October the 13th, giving us the first news of the retreat of the Duke of Brunswick, and the capture of Spires and Worms by Custine, and that of Nice by Anselme.] I therefore expressed to the President my cordial approbation of these ideas; told him I had meant on that day (as an opportunity of writing by the British packet would occur immediately) to take his orders for removing the suspension of payments to France, which had been imposed by my last letter to Gouverneur Morris, but was meant, as I supposed, only for the interval between the abolition of the late constitution by the dethronement of the King, and the meeting of some other body, invested by the will of the nation with powers to transact their

affairs; that I considered the National Convention, then assembled, as such a body; and that, therefore, we ought to go on with the payments to them, or to any government they should establish; that, however, I had learned last night, that some clause in the bill for providing reimbursement of the loan made by the bank to the United States, had given rise to a question before the House of Representatives yesterday, which might affect these payments: a clause in that bill proposing, that the money formerly borrowed in Amsterdam, to pay the French debt, and appropriated by law (1690, August 4th, c. 34, s. 2) to that purpose, lying dead as was suggested, should be taken to pay the bank, and the President be authorized to borrow two millions of dollars more, out of which it should be replaced; and if this should be done, the removal of our suspension of payments, as I had been about to propose, would be premature. He expressed his disapprobation of the clause above mentioned; thought it highly improper in the Legislature to change an appropriation once made, and added, that no one could tell in what that would end. I concurred, but observed, that on a division of the House, the ayes for striking out the clause were twenty-seven, the noes twenty-six; whereon the Speaker gave his vote against striking out, which divides the House: the clause for the disappropriation remained of course. I mentioned suspicions, that the whole of this was a trick to serve the bank under a great existing embarrassment; that the debt to the bank was to be repaid by instalments; that the first instalment was of two hundred thousand dollars only, or rather one hundred and sixty thousand dollars, (because forty thousand of the two hundred thousand dollars would be the United States' own dividend of the instalment.) Yet here were two millions to be paid them at once, and to be taken from a purpose of gratitude and honor, to which it had been appropriated.

December the 30th, 1792. I took the occasion furnished by Pinckney's letter of September the 19th, asking instructions how to conduct himself as to the French revolution, to lay down the catholic principal of republicanism, to wit, that every people may

establish what form of government they please, and change it as they please; the will of the nation being the only thing essential. I was induced to do this, in order to extract the President's opinion on the question which divided Hamilton and myself in the conversation of November, 1792, and the previous one of the first week of November, on the suspension of payments to France; and if favorable to mine, to place the principles of record in the letter books of my office. I therefore wrote the letter of December the 30th, to Pinckney, and sent it to the President, and he returned me his approbation in writing, in his note of the same date, which see.

February the 7th, 1793. I waited on the President with letters and papers from Lisbon. After going through these, I told him that I had for some time suspended speaking with him on the subject of my going out of office, because I had understood that the bill for intercourse with foreign nations was likely to be rejected by the Senate, in which case, the remaining business of the department would be too inconsiderable to make it worth while to keep it up. But that the bill being now passed, I was freed from the considerations of propriety which had embarrassed me. That &c. [nearly in the words of a letter to Mr. T. M. Randolph, of a few days ago,] and that I should be willing, if he had taken no arrangements to the contrary, to continue somewhat longer, how long I could not say, perhaps till summer, perhaps autumn. He said, so far from taking arrangements on the subject, he had never mentioned to any mortal the design of retiring which I had expressed to him, till yesterday, when having heard that I had given up my house, and that it was rented by another, he thereupon mentioned it to Mr. E. Randolph, and asked him, as he knew my retirement had been talked of, whether he had heard any persons suggested in conversation to succeed me. He expressed his satisfaction at my change of purpose, and his apprehensions that my retirement would be a new source of uneasiness to the public. He said Governor Lee had that day informed him of the general discontent prevailing in Virginia, of which he never had had any conception, much less sound infor-

mation. That it appeared to him very alarming. He proceeded to express his earnest wish that Hamilton and myself could coalesce in the measures of the government, and urged here the general reasons for it which he had done to me in two former conversations. He said he had proposed the same thing to Hamilton, who expressed his readiness, and he thought our coalition would secure the general acquiescence of the public. I told him my concurrence was of much less importance than he seemed to imagine; that I kept myself aloof from all cabal and correspondence on the subject of the government, and saw and spoke with as few as I could. That as to a coalition with Mr. Hamilton, if by that was meant that either was to sacrifice his general system to the other, it was impossible. We had both, no doubt, formed our conclusions after the most mature consideration; and principles conscientiously adopted, could not be given up on either side. My wish was, to see both Houses of Congress cleansed of all persons interested in the bank or public stocks: and that a pure legislature being given us, I should always be ready to acquiesce under their determinations, even if contrary to my own opinions; for that I subscribe to the principle, that the will of the majority, honestly expressed, should give law. I confirmed him in the fact of the great discontents to the south: that they were grounded on seeing that their judgments and interests were sacrificed to those of the eastern States on every occasion, and their belief that it was the effect of a corrupt squadron of voters in Congress, at the command of the Treasury; and they see that if the votes of those members who had any interest distinct from, and contrary to the general interest of their constituents, had been withdrawn, as in decency and honesty they should have been, the laws would have been the reverse of what they are on all the great questions. I instanced the new Assumption carried in the House of Representatives by the Speaker's vote. On this subject he made no reply. He explained his remaining in office to have been the effect of strong solicitations after he returned here; declaring that he had never mentioned his purpose of going out but to the Heads of departments and Mr. Madison: he expressed the extreme wretchedness of his existence while in

office, and went lengthily into the late attacks on him for levees, &c., and explained to me how he had been led into them by the persons he consulted at New York; and that if he could but know what the sense of the public was, he would most cheerfully conform to it.

February the 16th, 1793. E. Randolph tells J. Madison and myself, a curious fact which he had from Lear. When the President went to New York, he resisted for three weeks the efforts to introduce levees. At length he yielded, and left it to Humphreys and some others to settle the forms. Accordingly, an anti-chamber and presence room were provided, and when those who were to pay their court were assembled, the President set out, preceded by Humphreys. After passing through the anti-chamber, the door of the inner room was thrown open, and Humphreys entered first, calling out with a loud voice, "the President of the United States." The President was so much disconcerted with it, that he did not recover from it the whole time of the levee, and when the company was gone, he said to Humphreys, "Well, you have taken me in once, but by God you shall never take me in a second time."

There is reason to believe that the rejection of the late additional Assumption by the Senate, was effected by the President through Lear, operating on Langdon. Beckley knows this.

February the 20th, 1793. Colonel W. S. Smith called on me to communicate intelligence from France. He had left Paris November the 9th. He says the French ministers are entirely broken with Gouverneur Morris; shut their doors to him, and will never receive another communication from him. They wished Smith to be the bearer of a message from the President, to this effect, but he declined; and they said in that case they would press it through their own minister here. He says they are sending Genet here with full powers to give us all the privileges we can desire in their countries, and particularly in the West Indies; that they even contemplate to set them free the next summer;

that they propose to emancipate South America, and will send forty-five ships of the line there next spring, and Miranda at the head of the expedition ; that they desire our debt to be paid them in provisions, and have authorized him to negotiate this. In confirmation of this, he delivers a letter to the President from Le Brun, minister for foreign affairs, in which Le Brun says that Colonel Smith will communicate plans worthy of his (the President's) great mind, and he shall be happy to receive his opinion as to the means the most suitable to effect it.

I had, five or six days ago, received from Ternant, extracts from the lives of his ministers, complaining of both Gouverneur Morris and Mr. Short. I sent them this day to the President with an extract from a private letter of Mr. Short, justifying himself, and I called this evening on the President. He said he considered the extracts from Ternant very serious—in short, as decisive ; that he saw that Gouverneur Morris could be no longer continued there consistent with the public good ; that the moment was critical in our favor, and ought not to be lost ; that he was extremely at a loss what arrangement to make. I asked him whether Gouverneur Morris and Pinckney might not change places. He said that would be a sort of remedy, but not a radical one. That if the French ministry conceived Gouverneur Morris to be hostile to them ; if they would be jealous merely on his proposing to visit London, they would never be satisfied with us at placing him at London permanently. He then observed, that though I had unfixed the day on which I had intended to resign, yet I appeared fixed in doing it at no great distance of time ; that in this case, he could not but wish that I would go to Paris ; that the moment was important : I possessed the confidence of both sides, and might do great good ; that he wished I could do it, were it only to stay there a year or two. I told him that my mind was so bent on retirement that I could not think of launching forth again in a new business ; that I could never again cross the Atlantic ; and that as to the opportunity of doing good, this was likely to be the scene of action, as Genet was bringing powers to do the business here ; but that I could not think of going abroad. He replied that I had

pressed him to continue in the public service, and refused to do the same myself. I said the case was very different; he united the confidence of all America, and was the only person who did so: his services therefore were of the last importance; but for myself, my going out would not be noted or known. A thousand others could supply my place to equal advantage, therefore I felt myself free; and that as to the mission to France, I thought perfectly proper. He desired me then to consider maturely what arrangement should be made.

Smith, in speaking of Morris, said, that at his own table, in presence of his company and servants, he cursed the French ministers, as a set of damned rascals; said the king would still be replaced upon his throne. He said he knew they had written to have him recalled, and expected to be recalled. He consulted Smith to know whether he would bring his furniture here duty free. Smith has mentioned the situation of Gouverneur Morris freely to others here. Smith said also that the ministers told him they meant to begin their attack at the mouth of the Mississippi, and to sweep along the Bay of Mexico southwardly, and that they would have no objection to our incorporating into our government the two Floridas.

February the 25th, 1793. The President desires the opinions of the heads of the three departments, and of the Attorney-General, on the following question, to wit.: Mr. Ternant having applied for money equivalent to three millions of livres, to be furnished on account of our debt to France at the request of the executive of that country, which sum is to be laid out in provisions within the United States, to be sent to France. Shall the money be furnished?

The Secretary of the Treasury stated it as his opinion, that making a liberal allowance for the depreciation of assignats, (no rule of liquidation having been yet fixed,) a sum of about three hundred and eighteen thousand dollars may not exceed the arrearages equitably due to France to the end of 1792, and that the whole sum asked for may be furnished within periods capa-

ble of answering the purpose of Mr. Ternant's application, without a derangement of the Treasury.

Whereupon the Secretaries of State and War, and the Attorney General, are of opinion that the whole sum asked for by Mr. Ternant ought to be furnished: the Secretary of the Treasury is of opinion that the supply ought not exceed the above-mentioned sum of three hundred and eighteen thousand dollars.

The President having required the attendance of the heads of the three departments, and of the Attorney General, at his house, on Monday the 25th of February, 1793, the following questions were proposed, and answers given:

1. The Governor of Canada having refused to let us obtain provisions from that province, or to pass them along the water communication to the place of treaty with the Indians; and the Indians having refused to let them pass peaceably along what they call the bloody path, the Governor of Canada at the same time proposing to furnish the whole provisions necessary, ought the treaty to proceed? Answer unanimously, it ought to proceed.

2. Have the Executive, or the Executive and Senate together, authority to relinquish to the Indians the right of soil of any part of the land north of the Ohio, which has been validly obtained by former treaties?

The Secretary of the Treasury, the Secretary at War, and Attorney General, are of opinion that the Executive and Senate have such authority, provided that no grants to individuals, nor reservations to States, be thereby infringed. The Secretary of State is of opinion they have no such authority to relinquish.

3. Will it be expedient to make any such relinquishments to the Indians, if essential to peace?

The Secretaries of the Treasury and War, and the Attorney General, are of opinion it will be expedient to make such relinquishments if essential to peace, provided it do not include any lands sold or received for special purposes (the reservations for trading places excepted). The Secretary of State is of opinion that the Executive and Senate have authority to stipulate with the Indians, and that if essential to peace, it will be expedient

to stipulate that we will not settle any lands between those already sold, or reserved for special purposes, and the lines heretofore validly established with the Indians.

Whether the Senate shall be previously consulted on this point. The opinion unanimously is, that it will be better not to consult them previously.

February the 26th, 1793. Notes on the proceedings of yesterday. [See the formal opinions given to the President in writing, and signed.]

First question. We are all of opinion that the treaty should proceed merely to gratify the public opinion, and not from an expectation of success. I expressed myself strongly, that the event was so unpromising, that I thought the preparations for a campaign should go on without the least relaxation, and that a day should be fixed with the commissioners for the treaty, beyond which they should not permit the treaty to be protracted, by which day orders should be given for our forces to enter into action. The President took up the thing instantly, after I had said this, and declared that he was so much in the opinion that the treaty would end in nothing, that he then, in the presence of us all, gave orders to General Knox, not to slacken the preparations for the campaign in the least, but to exert every nerve in preparing for it. Knox said something about the ultimate day for continuing the negotiations. I acknowledged myself not a judge on what day the campaign should begin, but that whatever it was, that day should terminate the treaty. Knox said he thought a winter campaign was always the most efficacious against the Indians. I was of opinion, since Great Britain insisted on furnishing provisions, that we should offer to repay. Hamilton thought we should not.

Second question. I considered our right of pre-emption of the Indian lands, not as amounting to any dominion, or jurisdiction, or paramountship whatever, but merely in the nature of a remainder after the extinguishment of a present right, which gave us no present right whatever, but of preventing other nations from taking possession, and so defeating our expectancy;

that the Indians had the full, undivided and independent sovereignty as long as they choose to keep it, and that this might be forever; that as fast as we extend our rights by purchase from them, so fast we extend the limits of our society, and as soon as a new portion became encircled within our line, it became a fixed limit of our society; that the executive, with either or both branches of the legislature, could not alien any part of our territory; that by the law of nations it was settled, that the unity and indivisibility of the society was so fundamental, that it could not be dismembered by the constituted authorities, except, 1, where *all power* was delegated to them (as in the case of despotic governments), or, 2, where it was expressly delegated; that neither of these delegations had been made to our General Government, and therefore, that it had no right to dismember or alienate any portion of territory once ultimately consolidated with us; and that we could no more cede to the Indians than to the English or Spaniards, as it might, according to acknowledged principles, remain as irrevocably and eternally with the one as the other. But I thought, that as we had a right to sell and settle lands once comprehended within our lines, so we might forbear to exercise that right, retaining the property till circumstances should be more favorable to the settlement, and this I agreed to do in the present instance, if necessary for peace.

Hamilton agreed to the doctrine of the law of nations, as laid down in Europe, but that it was founded on the universality of settlement there; consequently, that no lopping off of territory could be made without a lopping off of citizens, which required their consent; but that the law of nations for us must be adapted to the circumstance of our unsettled country, which he conceived the President and Senate may cede; that the power of treaty was given to them by the Constitution, without restraining it to particular objects; consequently, that it was given in as plenipotentiary a form as held by any sovereign in any other society. Randolph was of opinion there was a difference between a cession to Indians and to any others, because it only restored the ceded part to the condition in which it was before we bought it, and consequently, that we might buy it again hereafter; there-

fore, he thought the executive and Senate could cede it. Knox joined in the main opinion. The President discovered no opinion, but he made some efforts to get us to join in some terms which could unite us all, and he seemed to direct those efforts more towards me; but the thing could not be done.

Third question. We agreed in idea as to the line to be drawn, to wit, so as to retain all lands appropriated, or granted, or reserved.

Fourth question. We all thought if the Senate should be consulted, and consequently apprized of our line, it would become known to Hammond, and we should lose all chance of saving anything more at the treaty than our ultimatum.

The President, at this meeting, mentioned the declaration of some person, in a paper of Fenno, that he would commence an attack on the character of Dr. Franklin. He said the theme was to him excessively disagreeable on other considerations, but most particularly so, as the party seemed to do it as a means of defending him (the President) against the late attacks on him; that such a mode of defence would be peculiarly painful to him, and he wished it could be stopped. Hamilton and Randolph undertook to speak to Fenno to suppress it, without mentioning it as the President's wish. Both observed that they had heard this declaration mentioned in many companies, and that it had excited universal horror and detestation.

The paper in Fenno must lie between two persons, viz., Adams and Izard, because they are the only persons who could know such facts as are there promised to be unfolded. Adams is an enemy to both characters, and might choose this ground as an effectual position to injure both. Izard hated Franklin with unparalleled bitterness, but humbly adores the President, because he is in *loco regis*. If the paper proceeds, we shall easily discover which of these two gentlemen is the champion. In the meantime, the first paper leads our suspicions more towards Izard than Adams, from the circumstance of style, and because he is quite booby enough not to see the injury he would do to the President by such a mode of defence.

February the 28th. Knox, E. Randolph and myself met at Knox's, where Hamilton was also to have met, to consider the time, manner and place of the President's swearing in. Hamilton had been there before, and had left his opinion with Knox, to wit, that the President should ask a judge to attend him in his own house to administer the oath, in the presence of the Heads of departments, which oath should be deposited in the Secretary of State's office. I concurred in this opinion. Randolph was for the President's going to the Senate's chamber to take the oath, attended by the marshal of the United States, who should then make proclamation, &c. Knox was for this, and for adding the House of Representatives to the presence, as they would not yet be departed. Our individual opinions were written, to be communicated to the President, out of which he might form one. In the course of our conversation, Knox, stickling for parade, got into great warmth, and swore that our government must either be entirely new modeled, or it would be knocked to pieces in less than ten years; and that as it is at present, he would not give a copper for it; that it is the President's character, and not the written constitution, which keeps it together.

Same day. Conversation with Lear. He expressed the strongest confidence that republicanism was the universal creed of America, except of a very few; that a republican administration must of necessity immediately overbear the contrary faction; said that he had seen with extreme regret that a number of gentlemen had for a long time been endeavoring to instil into the President, that the noise against the administration of the government was that of a little faction, which would soon be silent, and which was detested by the people, who were contented and prosperous; that this very party, however, began to see their error, and that the sense of America was bursting forth to their conviction.

March the 2d, 1793. See in the papers of this date, Mr. Giles's resolutions. He and one or two others were sanguine enough to believe that the palpableness of these resolutions rendered it impossible the House could reject them. Those who

knew the composition of the House, 1, of bank directors; 2, holders of bank stock; 3, stock jobbers; 4, blind devotees; 5, ignorant persons who did not comprehend them; 6, lazy and good-humored persons, who comprehended and acknowledged them, yet were too lazy to examine, or unwilling to pronounce censure; the persons who knew these characters, foresaw that the three first descriptions making one-third of the House, the three latter would make one-half of the residue; and, of course, that they would be rejected by a majority of two to one. But they thought that even this rejection would do good, by showing the public the desperate and abandoned dispositions with which their affairs were conducted. The resolutions were proposed, and nothing spared to present them in the fulness of demonstration. There were not more than three or four who voted otherwise than had been expected.

March the 30th, 1793. At our meeting at the President's, February the 25th, in discussing the question, whether we should furnish to France the three millions of livres desired, Hamilton, in speaking on the subject, used this expression, "When Mr. Genet arrives, whether we shall receive him or not, will then be a question for discussion," which expression I did not recollect till E. Randolph reminded me of it a few days after. Therefore, on the 20th instant, as the President was shortly to set out for Mount Vernon, I observed to him, that as Genet might arrive in his absence, I wished to know beforehand how I should treat him, whether as a person who would or would not be received? He said he could see no ground of doubt but that he ought to be received. On the 24th he asked E. Randolph's opinion on the subject, saying he had consulted Colonel Hamilton thereon, who went into lengthy considerations of doubt and difficulty, and viewing it as a very unfortunate thing that the President should have the decision of so critical a point forced on him; but, in conclusion, said, since he was brought into that situation, he did not see but that he must receive Mr. Genet. Randolph told the President he was clear he should be received, and the President said he had never had any doubt on the subject in his mind.

Afterwards, on the same day, he spoke to me again on it, and said Mr. Genet should unquestionably be received; but he thought not with too much warmth or cordiality, so only as to be satisfactory to him. I wondered at first at this restriction; but when Randolph afterwards communicated to me his conversation of the 24th, I became satisfied it was a small sacrifice to the opinion of Hamilton.

March the 31st. Mr. Beckley tells me, that the merchants' bonds for duties on six months' credit became due the 1st instant to a very great amount, that Hamilton went to the bank on that day, and directed the bank to discount for those merchants all their bonds at thirty days, and that he would have the collectors credited for the money at the treasury. Hence, the treasury lumping its receipts by the month in its printed accounts, these sums will be considered by the public as only received on the last day; consequently, the bank makes the month's interest out of it. Beckley had this from a merchant who had a bond discounted, and supposes a million of dollars were discounted at the bank here. Mr. Brown got the same information from another merchant, who supposed only six hundred thousand dollars discounted here. But they suppose the same orders went to all the branch banks to a great amount.

Eodem die. Mr. Brown tells me he has it from a merchant, that during the last winter the directors of the bank ordered the freest discounts. Every man could obtain it. Money being so flush, the six per cents run up to twenty-one and twenty-two shillings. Then the directors sold out their private stocks. When the discounted notes were becoming due, they stopped discounts, and not a dollar was to be had. This reduced six per cents to eighteen shillings and three pence; then the same directors bought in again.

April the 7th, 1793. Mr. Lear called on me, and introduced of himself a conversation on the affairs of the United States. He laughed at the cry of prosperity, and the deriving it from the establishment of the treasury: he said, that so far from giv-

ing into this opinion, and that we were paying off our national debt, he was clear the debt was growing on us; that he had lately expressed this opinion to the President, who appeared much astonished at it. I told him I had given the same hint to the President last summer, and lately again had suggested, that we were even depending for the daily subsistence of government on borrowed money. He said, that was certain, and was the only way of accounting for what was become of the money drawn over from Holland to this country. He regretted that the President was not in the way of hearing full information, declared he communicated to him everything he could learn himself; that the men who vaunted the present government so much on some occasions, were the very men who at other times declared it was a poor thing, and such a one as could not stand, and he was sensible they only esteemed it as a stepping stone to something else, and had availed themselves of the first moments of the enthusiasm in favor of it, to pervert its principles and make of it what they wanted; and that though they raised the cry of anti-federalism against those who censured the mode of administration, yet he was satisfied, whenever it should come to be tried, that the very men whom they called anti-federalists, were the men who would save the government, and he looked to the next Congress for much rectification.

April the 18th. The President sends a set of questions to be considered, and calls a meeting. Though those sent me were in his own hand writing, yet it was palpable from the style, their ingenious tissue and suite, that they were not the President's, that they were raised upon a prepared chain of argument, in short, that the language was Hamilton's, and the doubts his alone. They led to a declaration of the executive, that our treaty with France is void. E. Randolph, the next day, told me that the day before the date of these questions, Hamilton went with him through the whole chain of reasoning of which these questions are the skeleton, and that he recognized them the moment he saw them.

We met. The first question, whether we should receive the

French minister, Genet, was proposed, and we agreed unanimously that he should be received; Hamilton, at the same time, expressing his great regret that any incident had happened, which should oblige us to recognize the government. The next question was, whether he should be received absolutely, or with qualifications. Here Hamilton took up the whole subject, and went through it in the order in which the questions sketch it. See the chain of his reasoning in my opinions of April the 28th. Knox subscribed at once to Hamilton's opinion that we ought to declare the treaty void, acknowledging, at the same time, like a fool as he is, that he knew nothing about it. I was clear it remained valid. Randolph declared himself of the same opinion, but on Hamilton's undertaking to present to him the authority in Vattel (which we had not present) and to prove to him, that if the authority was admitted, the treaty might be declared void, Randolph agreed to take further time to consider. It was adjourned. We determined, unanimously, the last question, that Congress should not be called. There having been an intimation by Randolph, that in so great a question he should choose to give a written opinion, and this being approved by the President, I gave in mine April the 28th. Hamilton gave in his. I believe Knox's was never thought worth offering or asking for. Randolph gave his May the 6th, concurring with mine. The President told me, the same day, he had never had a doubt about the validity of the treaty; but that since a question had been suggested, he thought it ought to be considered: that this being done, I might now issue passports to sea vessels in the form prescribed by the French treaty. I had for a week past only issued the Dutch form; to have issued the French, would have been presupposing the treaty to be in existence. The President suggested, that he thought it would be as well that nothing should be said of such a question having been under consideration.

Written May the 6th.

May the 6th, 1793. When the question was, whether the proclamation of April the 22d should be issued, Randolph ob-

served, that there should be a letter written by me to the ministers of the belligerent powers, to declare that it should not be taken as conclusive evidence against our citizens in foreign courts of admiralty, for contraband goods. Knox suddenly adopted the opinion, before Hamilton delivered his. Hamilton opposed it pretty strongly. I thought it an indifferent thing, but rather approved Randolph's opinion. The President was against it; but observed that *as there were three for it, it should go.* This was the first instance I had seen of an opportunity to decide by a mere majority, including his own vote.

May the 12th. Lear called on me to-day. Speaking of the lowness of stocks, (sixteen shillings,) I observed it was a pity we had not money to buy on public account. He said, yes, and that it was the more provoking, as two millions had been borrowed for that purpose, and drawn over here, and yet were not here. That he had no doubt those would take notice of the circumstance whose duty it was to do so. I suppose he must mean the President.

May the 23d. I had sent to the President yesterday, draughts of a letter from him to the Provisory Executive Council of France, and of one from myself to Mr. Ternant, both on the occasion of his recall. I called on him to-day. He said there was an expression in one of them, which he had never before seen in any of our public communications, to wit, "our republic." The letter prepared for him to the Council, began thus: "The Citizen Ternant has delivered to me the letter wherein you inform me, that yielding, &c., you had determined to recall him from his mission, as your Minister Plenipotentiary to *our republic.*" He had underscored the words, *our republic.* He said that certainly ours was a republican government, but yet we had not used that style in this way; that if any body wanted to change its form into a monarchy, he was sure it was only a few individuals, and that no man in the United States would set his face against it more than himself; but that this was not what he was afraid of; his fears were from another quarter; that there was

more danger of anarchy being introduced. He adverted to a piece in Freneau's paper of yesterday; he said he despised all their attacks on him personally, but that there never had been an act of the government, not meaning in the executive line only, but in any line, which that paper had not abused. He had also marked the word republic thus ✓, where it was applied to the French republic. (See the original paper.) He was evidently sore and warm, and I took his intention to be, that I should interpose in some way with Freneau, perhaps withdraw his appointment of translating clerk to my office. But I will not do it. His paper has saved our constitution, which was galloping fast into monarchy, and has been checked by no one means so powerfully as by that paper. It is well and universally known, that it has been that paper which has checked the career of the monocrats; and the President, not sensible of the designs of the party, has not with his usual good sense and *sang froid*, looked on the efforts and effects of this free press, and seen that, though some bad things have passed through it to the public, yet the good have preponderated immensely.

June the 7th, 1793. Mr. Beckley, who has returned from New York within a few days, tells me that while he was there, Sir John Temple, Consul General of the northern States for Great Britain, showed him a letter from Sir Gregory Page Turner, a member of Parliament for a borough in Yorkshire, who, he said, had been a member for twenty-five years, and always confidential for the ministers, in which he permitted him to read particular passages of the following purport: "that the government was well apprized of the predominancy of the British interest in the United States; that they considered Colonel Hamilton, Mr. King, and Mr. W. Smith of South Carolina, as the main supports of that interest; that particularly, they considered Colonel Hamilton, and not Mr. Hammond, as their effective minister here; that if the anti-federal interest (that was his term), at the head of which they considered Mr. Jefferson to be, should prevail, these gentlemen *had secured* an asylum to themselves in England." Beckley could not understand whether

they had secured it *themselves*,* or whether they were only notified that it was secured to them. So that they understand that they may go on boldly in their machinations to change the government, and if they should be overset and choose to withdraw, they will be secure of a pension in England, as Arnold, Deane, &c., had. Sir John read passages of a letter (which he did not put into Beckley's hand, as he did the other) from Lord Grenville, saying nearly the same things. This letter mentions to Sir John, that though they had divided the Consul Generalship, and given the southern department to Bond, yet he, Sir John, was to retain his whole salary. [By this it would seem, as if, wanting to use Bond, they had covered his employment with this cloak.] Mr. Beckley says that Sir John Temple is a strong republican. I had a proof of his intimacy with Sir John in this circumstance. Sir John received his new commission of Consul for the northern department, and instead of sending it through Mr. Hammond, got Beckley to enclose it to me for his exequatur. I wrote to Sir John that it must come through Mr. Hammond, enclosing it back to him. He accordingly then sent it to Mr. Hammond.

In conversation with the President to-day, and speaking about General Greene, he said that he and General Greene had always differed in opinion about the manner of using militia. Greene always placed them in his front: himself was of opinion, they should always be used as a reserve to improve any advantage, for which purpose they were the *finest fellows* in the world. He said he was on the ground of the battle of Guilford, with a person who was in the action, and who explained the whole of it to him. That General Greene's front was behind a fence at the edge of a large field, through which the enemy were obliged to pass to get at them; and that in their passage through this, they must have been torn all to pieces, if troops had been posted there who would have stood their ground; and that the retreat from that position was through a thicket, perfectly secure. Instead of this, he posted the North Carolina militia there, who

[*In the margin is written, by Mr. Jefferson, "Impossible as to Hamilton he was far above that."]

only gave one fire and fell back, so that the whole benefit of their position was lost. He thinks that the regulars, with their field pieces, would have hardly let a single man get through that field.

Eodem die (June the 7th). Beckley tells me that he has the following fact from Governor Clinton. That before the proposition for the present General Government, *i. e.* a little before Hamilton conceived a plan for establishing a monarchial government in the United States, he wrote a draught of a circular letter, which was to be sent to about —— persons, to bring it about. One of these letters, in Hamilton's handwriting, is now in possession of an old militia General up the North River, who, at that time, was thought *orthodox* enough to be entrusted in the execution. This General has given notice to Governor Clinton that he has this paper, and that he will deliver it into his hands, and no one's else. Clinton intends, the first interval of leisure, to go for it, and he will bring it to Philadelphia. Beckley is a man of perfect truth as to what he affirms of his own knowledge, but too credulous as to what he hears from others.

June the 10th, 1793. Mr. Brown gives me the following specimen of the phrenzy which prevailed at New York on the opening of the new government. The first public ball which took place after the President's arrival there, Colonel Humphreys, Colonel W. S. Smith and Mrs. Knox were to arrange the ceremonials. These arrangements were as follows: a sofa at the head of the room, raised on several steps, whereon the President and Mrs. Washington were to be seated. The gentlemen were to dance in swords. Each one, when going to dance, was to lead his partner to the foot of the sofa, make a low obeisance to the President and his lady, then go and dance, and when done, bring his partner again to the foot of the sofa for new obeisances, and then to retire to their chairs. It was to be understood, too, that gentlemen should be dressed in bags. Mrs. Knox contrived to come with the President, and to follow him and Mrs. Washington to their destination, and she had the design

of forcing an invitation from the President to a seat on the sofa. She mounted up the steps after them unbidden, but unfortunately the wicked sofa was so short, that when the President and Mrs. Washington were seated, there was not room for a third person; she was obliged, therefore, to descend in the face of the company, and to sit where she could. In other respects the ceremony was conducted rigorously according to the arrangements, and the President made to pass an evening which his good sense rendered a very miserable one to him.

June the 12th. Beckley tells me that Klingham has been with him to day, and relates to him the following fact: A certificate of the old Congress had been offered at the treasury and refused payment, and so indorsed in red ink as usual. This certificate came to the hands of Francis, (the quondam clerk of the treasury, who, on account of his being dipped in the infamous case of the Baron Glaubec, Hamilton had been obliged to dismiss, to save appearances, but with an assurance of all future service, and he accordingly got him established in New York.) Francis wrote to Hamilton that such a ticket was offered him, but he could not buy it unless he would inform him and give him his certificate that it was good. Hamilton wrote him a most friendly letter, and sent him the certificate. He bought the paper, and came on here and got it recognized, whereby he made twenty-five hundred dollars. Klingham saw both the letter and certificate.

Irving, a clerk in the treasury, an Irishman, is the author of the pieces now coming out under the signature of Veritas, and attacking the President. I have long suspected this detestable game was playing by the fiscal party, to place the President on their side.

June the 17th, 1793. At a meeting of the Heads of department at the President's this day, on summons from him, a letter from Mr. Genet of the 15th inst. (addressed to the Secretary of State on the subject of the seizure of a vessel by the Governor of New York, as having been armed, equipped and manned in

that port, with a design to cruize on the enemies of France), was read, as also the draught of an answer prepared by the Secretary of State, which was approved.

Read, also, a letter of June 14th from Mr. Hammond to the Secretary of State, desiring to know whether the French privateers, the Citizen Genet, and Sans Culottes, are to be allowed to return or send their prizes into the ports of the United States. It is the opinion that he be informed that they were required to depart to the dominions of their own sovereign, and nothing expressed as to their ulterior proceedings; and that in answer to that part which states that the Sans Culottes had increased its force in the port of Baltimore, and remained there in the avowed intention of watching the motions of a valuable ship now lying there, it be answered that we expect the speedy departure of those privateers will obviate the inconveniences apprehended, and that it will be considered whether any practical arrangements can be adopted to prevent the augmentations of the force of armed vessels.

THOMAS JEFFERSON.
ALEXANDER HAMILTON.
HENRY KNOX.

June the 20th, 1793. At a meeting this day of the Heads of department at the President's, on summons from him, a letter from Messrs. Viar and Jaudines, dated June 18th, and addressed to the Secretary of State, was read; whereupon it is the opinion that a full detail of the proceedings of the United States with respect to the southern Indians and the Spaniards be prepared, and a justification as to the particular matters charged in the said letter; that this be sent, with all the necessary documents, to our commissioners at the court of Madrid, leaving to them a discretion to change expressions in it which to them may appear likely to give offence in the circumstances under which they may be at the time of receiving it; and that a copy be sent to Mr. Pinckney for his information, and to make such use of the matter it contains as to him should seem expedient; that an answer be written to Messrs. Viar and Jaudines informing them that we shall convey

our sentiments on the subject to their court through our commissioners at Madrid, and letting them see that we are not insensible to the style and manner of their communications.

A draught of a letter from the Secretary of State to Mr. Hammond, asking when an answer to his letter of May 29th, 1792, might be expected, was read and approved.

THOMAS JEFFERSON.
ALEXANDER HAMILTON.
HENRY KNOX.

July the 5th, 1793. A meeting desired by Alexander Hamilton at my office. Himself, Knox, and myself met accordingly. He said that according to what had been agreed on in presence of the President, in consequence of Mr. Genet's declining to pay the $45,000 at his command in the treasury, to the holders of the St. Domingo bills, we had agreed to pay the holders out of other moneys to that amount; that he found, however, that these bills would amount to $90,000, and the question was whether he should assume $90,000 to be paid out of the September instalment. This, he said, would enable holders to get discounts at the banks, would therefore be equal to ready money, and save them from bankruptcy. Unanimously agreed to. We also agreed to a letter written by General Knox to Governor Mifflin, to have a particular inquiry made whether the Little Sarah is arming, &c., or not. I read also Governor Lee's letter about the Governor of South Carolina's proclamation respecting pestilential disease in West Indies. We are all of opinion the evidence is too slight for interference, and doubt the power to interfere. Therefore let it lie.

Mr. Genet called on me, and read to me very rapidly instructions he had prepared for Michaud, who is going to Kentucky; an address to the inhabitants of Louisiana, and another to those of Canada. In these papers it appears that, besides encouraging those inhabitants to insurrection, he speaks of two generals in Kentucky who have proposed to him to go and take New Orleans, if he will furnish the expense, about £3,000 sterling. He declines advancing it, but promises that sum ultimately for their expenses;

proposes that officers shall be commissioned by himself in Kentucky and Louisiana; that they shall rendezvous *out of the territories of the United States*,—suppose in Louisiana, and there making up a battalion to be called the ——— ——— of inhabitants of Louisiana and Kentucky, and getting what Indians they could, to undertake the expedition against New Orleans, and then Louisiana to be established into an independent State, connected in commerce with France and the United States; that two frigates shall go into the river Mississippi, and co-operate against New Orleans. The address to Canada was to encourage them to shake off English yoke, to call Indians to their assistance, and to assure them of the friendly dispositions of their neighbors of the United States.

He said he communicated these things to me, not as Secretary of State, but as Mr. Jefferson. I told him that his enticing officers and soldiers from Kentucky to go against Spain, was really putting a halter about their necks; for that they would assuredly be hung if they commenced hostilities against a nation at peace with the United States. That leaving out that article I did not care what insurrections should be excited in Louisiana. He had about a fortnight ago sent me a communication for Michaud as consul of France at Kentucky, and desired an Exequatur. I told him this could not be given, that it was only in the *ports* of the United States they were entitled to consuls, and that if France should have a consul at Kentucky, England and Spain would soon demand the same, and we should have all our interior country filled with foreign agents. He acquiesced, and asked me to return the commission and his note, which I did; but he desired I would give Michaud a letter of introduction for Governor Shelby. I sent him one a day or two after. He now observes to me that in that letter I speak of him only as a person of botanical and natural pursuits, but that he wished the Governor to view him as something more; as a French citizen possessing his confidence. I took back the letter and wrote another.

Memorandum of a Meeting at the State House, Philadelphia, relative to the case of the Little Sarah.

July the 8th, 1793. At a meeting at the State House of the City of Philadelphia,

Present: the Secretary of State, the Secretary of the Treasury, the Secretary of War.

It appears that a brigantine, called the Little Sarah, has been fitted out at the port of Philadelphia, with fourteen cannon and all other equipment, indicating that she is intended to cruise under the authority of France, and that she is now lying in the river Delaware, at some place between this city and Mud Island; that a conversation has been had between the Secretary of State and the Minister Plenipotentiary of France, in which conversation the Minister refused to give any explicit assurance that the brigantine would continue until the arrival of the President, and his decision in the case, but made declarations respecting her not being ready to sail within the time of the expected return of the President, from which the Secretary of State infers with confidence, that she will not sail till the President will have an opportunity of considering and determining the case; that in the course of the conversation, the Minister declared that the additional guns which had been taken in by the Little Sarah were French property, but the Governor of Pennsylvania declared that he has good ground to believe that two of her cannon were purchased here of citizens of Philadelphia.

The Governor of Pennsylvania asks advice what steps, under the circumstances, he shall pursue?

The Secretary of the Treasury and the Secretary of War are of opinion, that it is expedient that immediate measures should be taken provisionally for establishing a battery on Mud Island, under cover of a party of militia, with direction that if the brig Sarah should attempt to depart before the pleasure of the President shall be known concerning her, military coercion be employed to arrest and prevent her progress.

The Secretary of State dissents from this opinion.

Reasons for his Dissent.

I am against the preceding opinion of the Secretaries of the Treasury and War, for ordering a battery to be erected on Mud Island, and firing on the Little Sarah, an armed vessel of the Republic of France:

Because I am satisfied, from what passed between Mr. Genet and myself at our personal interview yesterday, that the vessel will not be ordered to sail till the return of the President, which, by a letter of this day's post, we may certainly expect within eight and forty hours from this time.

Because the erecting a battery and mounting guns to prevent her passage might cause a departure not now intended, and produce the fact it is meant to prevent.

Because were such battery and guns now in readiness and to fire on her, in the present ardent state of her crew just in the moment of leaving port, it is morally certain that bloody consequences would follow. No one could say how many lives would be lost on both sides, and all experience has shown, that blood once seriously spilled between nation and nation, the contest is continued by subordinate agents, and the door of peace is shut. At this moment, too, we expect in the river twenty of their ships of war, with a fleet of from one hundred to one hundred and fifty of their private vessels, which will arrive at the scene of blood in time to continue it, if not to partake in it.

Because the actual commencement of hostilities against a nation, for such this act may be, is an act of two serious consequence to our countrymen to be brought on their heads by subordinate officers, not chosen by them nor clothed with their confidence; and too presumptuous on the part of those officers, when the chief magistrate, into whose hands the citizens have commited their safety, is within eight and forty hours of his arrival here, and may have an opportunity of judging for himself and them, whether the buying and carrying away two cannon, (for according to information, the rest are the nation's own property,) is sufficient cause of war between Americans and Frenchmen.

Because, should the vessel, contrary to expectation, depart be-

fore the President's arrival, the adverse powers may be told the truth of the case: that she went off contrary to what we had a right to expect; that we shall be justifiable in future cases to measure our confidence accordingly; that for the present we shall demand satisfaction from France, which, with the proof of good faith we have already given, ought to satisfy them. Above all, Great Britain ought not to complain: for, since the date of the order forbidding that any of the belligerent powers should equip themselves in our ports with our arms, these two cannon are all that have escaped the vigilance of our officers on the part of their enemies, while their vessels have carried off more than ten times the number, without any impediment; and if the suggestion be true (and as yet it is but suggestion) that there are fifteen or twenty Americans on board the Little Sarah, who have gone with their own consent, it is equally true that more than ten times that number of Americans are at this moment on board English ships of war, who have been taken forcibly from our merchant vessels at sea or in port, wherever met with, and compelled to bear arms against the friends of their country. And is it less a breach of our neutrality towards France to suffer England to strengthen herself with our force, than towards England to suffer France to do so? And are we equally ready and disposed to sink the British vessels in our ports by way of reprisal for this notorious and avowed practice?

Because it is inconsistent for a nation which has been patiently bearing for ten years the grossest insults and injuries from their late enemies, to rise at a feather against their friends and benefactors; and that, too, in a moment when circumstances have kindled the most ardent affections of the two people towards each other; when the little subjects of displeasure which have arisen are the acts of a particular individual, not yet important enough to have been carried to his government as causes of complaint; are such as nations of moderation and justice settle by negociation, not making war their first step; are such as that government would correct at a word, if we may judge from the late unequivocal demonstrations of their friendship towards us; and are very slight shades of the acts committed against us by England, which

we have been endeavoring to rectify by negociation, and on which they have never condescended to give any answer to our minister.

Because I would not gratify the combination of kings with the spectacle of the two only republics on earth destroying each other for two cannon; nor would I, for infinitely greater cause, add this country to that combination, turn the scale of contest, and let it be from our hands that the hopes of man received their last stab.

It has been observed that a general order has been already given to stop by force vessels arming contrary to rule in our ports, in which I concurred. I did so because it was highly presumeable that the destination of such a vessel would be discovered in some early stage, when there would be few persons on board, these not yet disposed nor prepared to resist, and a small party of militia put aboard would stop the procedure without a marked infraction of the peace. But it is a much more serious thing when a vessel has her full complement of men, (here said to be one hundred and twenty,) with every preparation and probably with disposition to go through with their enterprise. A serious engagement is then a certain consequence. Besides, an act of force, committed by an officer in a distant port, under general orders, given long ago, to take effect on all cases, and with less latitude of discretion in him, would be a much more negociable case than a recent order, given by the general government itself (for that is the character we are to assume) on the spot, in the very moment, pointed at this special case, professing full discretion and not using it. This would be a stubborn transaction, not admitting those justifications and explanations which might avert a war, or admitting such only as would be entirely humiliating to the officers giving the order, and to the government itself.

On the whole, respect to the chief magistrate, respect to our countrymen, their lives, interests, and affection, respect to a most friendly nation, who, if we give them the opportunity, will answer our wrongs by correcting and not by repeating them; respect to the most sacred cause that ever man was engaged in, poising maturely the evils which may flow from the commitment

of an act which it would be in the power and probably in the temper of subordinate agents to make an act of continued war, and those which may flow from an eight and forty hours suspension of the act, are motives with me for suspending it eight and forty hours, even should we thereby lose the opportunity of committing it altogether.

Copy of a minute given to the President.

July the 12th, 1793. At a meeting of the Heads of the departments at the President's, on summons from him, and on consideration of various representations from the Minister Plenipotentiary of France and Great Britain, on the subject of vessels arming and arriving in our ports, and of prizes;—it is their opinion that letters be written to the said ministers, informing them that the executive of the United States is desirous of having done what shall be strictly conformable to the treaties of the United States; and the laws respecting the said cases has determined to refer the questions arising therein to persons learned in the laws; that as this reference will occasion some delay, it is expected that, in the meantime, the Little Sarah, or Little Democrat, the ship Jane, and the ship William, in the Delaware, the Citoyen Genet and her prizes, the brigs Lovely-Lass and Prince William Henry, and the brig in the Chesapeake, do not depart till the further order of the President.

That letters be addressed to the judges of the Supreme Court of the United States, requesting their attendance at this place on Thursday the 18th instant, to give their advice on certain matters of public concern, which will be referred to them by the President.

That the Governor be desired to have the ship Jane attended to with vigilance, and if she be found augmenting her force and about to depart, that he cause her to be stopped.

THOMAS JEFFERSON.
ALEXANDER HAMILTON.
HENRY KNOX.

A recapitulation of questions whereon we have given opinions.

Does the treaty with France leave us free to prohibit her from arming vessels in our ports? Thomas Jefferson, Hamilton, Knox, and Randolph—unanimous—it does. As the treaty obliges us to prohibit the enemies of France from arming in our ports, and leaves us free to prohibit France, do not the laws of neutrality oblige us to prohibit her? Same persons answer they do.

How far may a prohibition now declared be retrospective to the vessels armed in Charleston before the prohibition, to wit, the Citoyen Genet and Sans Culottes, and what is to be done with these prizes? Thomas Jefferson,—It cannot be retrospective at all; they may sell their prizes, and continue to act freely as other armed vessels of France. Hamilton and Knox,—The prizes ought to be given up to the English, and the privateers suppressed. Randolph,—They are free to sell their prizes, and the privateers should be ordered away, not to return here till they shall have been to the dominions of their own sovereign, and thereby purged the illegality of their origin. This last opinion was adopted by the President.

Our citizens who have joined in these hostilities against nations at peace with the United States, are they punishable? E. Randolph gave an official opinion—they were. Thomas Jefferson, Hamilton and Knox joined in the opinion. All thought it our duty to have prosecutions instituted against them, that the laws might pronounce on their case. In the first instance, two only were prosecuted merely to try the question, and to satisfy the complaint of the British men; and because it was thought they might have offended unwittingly. But a subsequent armament of a vessel at New York taking place with full knowledge of this prosecution, all the persons engaged in it, citizens and foreigners, were ordered to be prosecuted.

May the prohibition extend to the means of the party arming, or are they only prohibited from using our means for the annoyance of their enemies? Thomas Jefferson of opinion they are free to use their own means, *i. e.*, to mount their own guns, &c.

Hamilton and Knox of opinion they are not to put even their own implements or means into a posture of annoyance. The President has as yet not decided this.

May an armed vessel arriving here be prohibited to employ their own citizens found here as seamen or mariners? Thomas Jefferson,—They cannot be prohibited to recruit their own citizens. Hamilton and Knox,—They may and ought to be prohibited. No decision yet by the President.

It appears to me the President wished the Little Sarah had been stopped by military coercion, that is, by firing on her; yet I do not believe he would have ordered it himself had he been here, though he would be glad if we had ordered it. The United States being a ship-building nation, may they sell ships, prepared for war, to both parties? Thomas Jefferson,—They may sell such ships in their ports to both parties, or carry them for sale to the dominions of both parties. E. Randolph of opinion they could not sell them here; and that if they attempted to carry them to the dominions of the parties for sale, they might be seized by the way as *contraband*. Hamilton of same opinion, except that he did not consider them as seizable for contraband, but as the property of a power, making itself a party in the *war* by an aid of such a nature, and consequently that it would be a breach of neutrality.

Hamilton moves that the government of France be desired to recall Mr. Genet. Knox adds that he be in the meantime suspended from his functions. Thomas Jefferson proposes that his correspondence be communicated to his government, with friendly observations. President silent.

July the 15th. Thomas Jefferson, Hamilton and Knox met at the President's. Governor Mifflin had applied to Knox for the loan of four cannon to mount at Mud Island. He informed him he should station a guard of thirty-five militia there, and asked what arrangement for rations the general government had taken. Knox told him nothing could be done as to rations, and he would ask the President for the cannon. In the meantime, he promised him to put the cannon on board a boat, ready to

send off as soon as permission was obtained. The President declared his own opinion *first* and fully, that when the orders were given to the government to stop vessels arming, &c., in our ports, even by military force, he took for granted the government would use such diligence as to stop those projects in embryo, and stop them when no force was requisite, or a very small party of militia would suffice; that here was a demand from the government of Pennsylvania to land four cannon under pretext of executing orders of the general government; that if this was granted, we should be immediately applied to by every other governor, and that not for one place only, but for several, and our cannon would be dispersed all over the United States; that for this reason we would refuse the same request to the governors of South Carolina, Virginia, and Rhode Island; that if they erected batteries, they must establish men for them, and would come on us for this too. He did not think the executive had a power to establish permanent guards: he had never looked to anything permanent when the orders were given to the governors, but only an occasional call on small parties of militia in the moments requiring it. These sentiments were so entirely my own, that I did little more than combat on the same grounds the opinions of Hamilton and Knox. The latter said he would be ready to lend an equal number to every government to carry into effect orders of such importance; and Hamilton, that he would be willing to lend them in cases where they happened to be as near the place where they were to be mounted.

Hamilton submitted the purchase of a large quantity of saltpetre, which would outrun the funds destined to objects of that class by Congress. We were unanimous we ought to venture on it, and to the procuring supplies of military stores in the present circumstances, and take on us the responsibility to Congress, before whom it should be laid.

The President was fully of the same opinion.

In the above case of the cannon, the President gave no final order while I remained; but I saw that he was so impressed with the disagreeableness of taking them out of the boat again, that he would yield. He spoke sharply to Knox for having put

them in that position without consulting him, and declared that, but for that circumstance, he would not have hesitated one moment to refuse them.

July the 18th, 1793. Lear calls on me. I told him that Irving, an Irishman, and a writer in the treasury, who, on a former occasion, had given the most decisive proofs of his devotion to his principal, was the author of the pieces signed Veritas; and I wished he could get at some of Irving's acquaintances and inform himself of the fact, as the person who told me of it would not permit the name of his informer to be mentioned; [*Note.*—Beckley told me of it, and he had it from Swaine, the printer to whom the pieces were delivered;] that I had long before suspected this excessive foul play in that party, of writing themselves in the character of the most exaggerated democrats, and incorporating with it a great deal of abuse on the President, to make him believe it was that party who were his enemies, and so throw him entirely into the scale of the monocrats. Lear said he no longer ago than yesterday, expressed to the President his suspicions of the artifices of that party to work on him. He mentioned the following fact as a proof of their writing in the character of their adversaries; to wit, the day after the little incident of Richet's toasting "the man of the people," (see the gazettes.) Mrs. Washington was at Mrs. Powel's, who mentioned to her that when the toast was given, there was a good deal of disapprobation appeared in the audience, and that many put on their hats and went out; on inquiry, he had not found the fact true, and yet it was put into ————'s paper, and written under the character of a republican, though he is satisfied it is altogether a slander of the monocrats. He mentioned this to the President, but he did not mention to him the following fact, which he knows; that in New York, the last summer, when the parties of Jay and Clinton were running so high, it was an agreed point with the former, that if any circumstances should ever bring it to a question, whether to drop Hamilton or the President, they had decided to drop the President. He said that lately one of the loudest pretended friends to the

government, damned it, and said it was good for nothing, that it could not support itself, and it was time to put it down and set up a better; and yet the same person, in speaking to the President, puffed off that party as the only friends to the government. He said he really feared, that by their artifices and industry, they would aggravate the President so much against the republicans, as to separate him from the body of the people. I told him what the same cabals had decided to do, if the President had refused his assent to the bank bill; also what Brockhurst Livingston said to ———, that Hamilton's life was much more precious to the community than the President's.

July the 29th, 1793. At a meeting at the President's on account of the British letter-of-marque, ship Jane, said to have put up waste boards, to have pierced two port holes, and mounted two cannon (which she brought in) on new carriages which she did not bring in, and consequently having sixteen, instead of fourteen, guns mounted, it was agreed that a letter-of-marque, or vessel armé en guerre, and en marchandise, is not a privateer, and therefore not to be ordered out of our ports. It was agreed by Hamilton, Knox, and myself, that the case of such a vessel does not depend on the treaties, but on the law of nations. Edmund Randolph thought, as she had a mixed character of merchant vessel and privateer, she might be considered under the treaty; but this being overruled, the following paper was written:

Rules proposed by Attorney General:

1st. That all equipments purely for the accommodation of vessels, as merchantmen, be admitted. [Agreed.]

2d. That all equipments, doubtful in their nature, and applicable equally to commerce or war, be admitted, as producing too many minutia. [Agreed.]

3d. That all equipments, solely adapted to military objects, be prohibited. [Agreed.]

Rules proposed by the Secretary of the Treasury:

1st. That the original arming and equipping of vessels for military service, offensive or defensive, in the ports of the United States, be considered as prohibited to all. [Agreed.]

2d. That vessels which were armed before their coming into our ports, shall not be permitted to augment these equipments in the ports of the United States, but may repair or replace any military equipments which they had when they began their voyage for the United States; that this, however, shall be with the exception of privateers of the parties opposed to France, who shall not refit or repair. [Negatived—the Secretary of the Treasury only holding the opinion.]

3d. That for convenience, vessels armed and commissioned before they come into our ports, may engage their own citizens, not being inhabitants of the United States. [Agreed.]

I subjoined the following:

I concur in the rules proposed by the Attorney General, as far as respects materials or means of annoyance furnished by us; and I should be for an additional rule, that as to means or materials brought into this country, and belonging to themselves, they are free to use them.

August the 1st. Met at the President's, to consider what was to be done with Mr. Genet. All his correspondence with me was read over. The following propositions were made: 1. Tha a full statement of Mr. Genet's conduct be made in a letter to G. Morris, and be sent with his correspondence, to be communicated to the Executive Council of France; the letter to be so prepared, as to serve for the form of communication to the Council. Agreed unanimously. 2. That in that letter his recall be required. Agreed by all, though I expressed a preference of expressing that desire with great delicacy; the others were for peremptory terms. 3. To send him off. This was proposed by Knox; but rejected by every other. 4. To write a letter to Mr. Genet, the same in substance with that written to G. Morris, and let him know we had applied for his recall. I was against this, because I thought it would render him extremely active in his plans, and endanger confusion. But I was overruled by the other three gentlemen and the President. 5. That a publication of the whole correspondence, and statement of the proceedings, should be made by way of appeal to the people. Hamilton

made a jury speech of three-quarters of an hour, as inflammatory and declamatory as if he had been speaking to a jury. E. Randolph opposed it. I chose to leave the contest between them. Adjourned to next day.

August the 2d. Met again. Hamilton spoke again three-quarters of an hour. I answered on these topics. *Object* of the appeal.—The democratic society; this the great circumstance of alarm; afraid it would extend its connections over the continent; chiefly meant for the local object of the ensuing election of Governor. If left alone, would die away after that is over. If opposed, if proscribed, would give it importance and vigor; would give it a new object, and multitudes would join it merely to assert the right of voluntary associations. That the measure was calculated to make the President assume the station of the head of a party, instead of the head of the nation. *Plan* of the appeal.—To consist of *facts* and the *decisions* of the President. As to facts we are agreed; but as to the decisions, there have been great differences of opinion among us. Sometimes as many opinions as persons. This proves there will be ground to attack the decisions. Genet will appeal also; it will become a contest between the President and Genet—anonymous writers—will be same difference of opinion in *public*, as in our cabinet—will be same difference in *Congress*, for it must be laid before them—would, therefore, work very unpleasantly *at home*. How would it work *abroad?* France—unkind—after such proofs of her friendship, should rely on that friendship, and her justice. Why appeal to the world? Friendly nations always negotiate little differences in private. Never appeal to the world, but when they appeal to the sword. Confederacy of Pilnitz was to overthrow the government of France. The interference of France to disturb other governments and excite insurrections, was a measure of reprisal. Yet these Princes have been able to make it believed to be the system of France. Colonel Hamilton supposes Mr. Genet's proceedings here are in pursuance of that system; and we are so to declare it to the world, and to add our testimony to this base calumny of the Princes. What

a triumph to them to be backed by our testimony. What a fatal stroke at the cause of liberty; *et tu Brute.* We indispose the French government, and they will retract their offer of the treaty of commerce. The President manifestly inclined to the appeal to the people.* Knox, in a foolish incoherent sort of a speech, introduced the pasquinade lately printed, called the funeral of George W—n, and James W—n, King and Judge, &c., where the President was placed on a guillotine. The President was much inflamed; got into one of those passions when he cannot command himself; ran on much on the personal abuse which had been bestowed on him; defied any man on earth to produce one single act of his since he had been in the government, which was not done on the purest motives; that he had never repented but once the having slipped the moment of resigning his office, and that was every moment since; that *by God* he had rather be in his grave than in his present situation; that he had rather be on his farm than to be made *Emperor of the world;* and yet that they were charging him with wanting to be a King. That that *rascal Freneau* sent him three of his papers every day, as if he thought he would become the distributor of his papers; that he could see in this, nothing but an impudent design to insult him: he ended in this high tone. There was a pause. Some difficulty in resuming our question; it was, however, after a little while, presented again, and he said there seemed to be no necessity for deciding it now; the propositions before agreed on might be put into a train of execution, and perhaps events would show whether the appeal would be necessary or not. He desired we would meet at my office the next day, to consider what should be done with the vessels armed in our ports by Mr. Genet, and their prizes.

* He said that Mr. Morris, taking a family dinner with him the other day, went largely, and of his own accord, into this subject; advised this appeal, and promised, if the President adopted it, that he would support it himself, and engage for all his connections. The President repeated this twice, and with an air of importance. Now, Mr. Morris has no family connections: he engaged then for his political friends. This shows that the President has not confidence enough in the virtue and good sense of mankind, to confide in a government bottomed on them, and thinks other props necessary.

August the 3d. We met. The President wrote to take our opinions, whether Congress should be called. Knox pronounced at once against it. Randolph was against it. Hamilton said his judgment was against it, but that if any two were for it, or against it, he would join them to make a majority. I was for it. We agreed to give separate opinions to the President. Knox said we should have had fine work, if Congress had been sitting these two last months. The fool thus let out the secret. Hamilton endeavored to patch up the indiscretion of this blabber, by saying "he did not know; he rather thought they would have strengthened the executive arm." It is evident they do not wish to lengthen the session of the *next Congress*, and probably they particularly wish it should not meet till Genet is gone. At this meeting I received a letter from Mr. Remson at New York, informing me of the event of the combat between the Ambuscade and the Boston. Knox broke out into the most unqualified abuse of Captain Courtany. Hamilton, with less fury, but with the deepest vexation, loaded him with censures. Both showed the most unequivocal mortification at the event.

August the 6th, 1793. The President calls on me at my house in the country, and introduces my letter of July the 31st, announcing that I should resign at the close of the next month. He again expressed his repentance at not having resigned himself, and how much it was increased by seeing that he was to be deserted by those on whose aid he had counted; that he did not know where he should look to find characters to fill up the offices; that mere talents did not suffice for the department of State, but it required a person conversant in foreign affairs, perhaps acquainted with foreign courts; that without this, the best talents would be awkward and at a loss. He told me that Colonel Hamilton had three or four weeks ago written to him, informing him that private as well as public reasons had brought him to the determination to retire, and that he should do it towards the close of the next session. He said he had often before intimated dispositions to resign, but never as decisively before; that he supposed he had fixed on the latter part of next

session, to give an opportunity to Congress to examine into his conduct; that our going out at times so different, increased his difficulty; for if he had both places to fill at once, he might consult both the particular talents and geographical situation of our successors. He expressed great apprehensions at the fermentation which seemed to be working in the mind of the public; that many descriptions of persons, actuated by different causes, appeared to be uniting; what it would end in he knew not; a new Congress was to assemble, more numerous, perhaps of a different spirit; the first expressions of their sentiments would be important; if I would only stay to the end of that, it would relieve him considerably.

I expressed to him my excessive repugnance to public life, the particular uneasiness of my situation in this place, where the laws of society oblige me always to move exactly in the circle which I know to bear me peculiar hatred; that is to say, the wealthy aristocrats, the merchants connected closely with England, the new created paper fortunes; that thus surrounded, my words were caught, multiplied, misconstrued, and even fabricated and spread abroad to my injury; that he saw also, that there was such an opposition of views between myself and another part of the administration, as to render it peculiarly unpleasing, and to destroy the necessary harmony. Without knowing the views of what is called the republican party here, or having any communication with them, I could undertake to assure him, from my intimacy with that party in the late Congress, that there was not a view in the republican party as spread over the United States, which went to the frame of the government; that I believed the next Congress would attempt nothing material, but to render their own body independent; that that party were firm in their dispositions to support the government; that the manœuvres of Mr. Genet might produce some little embarrassment, but that he would be abandoned by the republicans the moment they knew the nature of his conduct; and on the whole, no crisis existed which threatened anything.

He said he believed the views of the republican party were perfectly pure, but when men put a machine into motion, it is

impossible for them to stop it exactly where they would choose, or to say where it will stop. That the constitution we have is an excellent one, if we can keep it where it is; that it was, indeed, supposed there was a party disposed to change it into a monarchical form, but that he could conscientiously declare there was not a man in the United States who would set his face more decidedly against it than himself. Here I interrupted him, by saying, "No rational man in the United States suspects you of any other disposition; but there does not pass a week, in which we cannot prove declarations dropping from the monarchical party that our government is good for nothing, is a milk and water thing which cannot support itself, we must knock it down, and set up something of more energy." He said if that was the case, he thought it a proof of their insanity, for that the republican spirit of the Union was so manifest and so solid, that it was astonishing how any one could expect to move it.

He returned to the difficulty of naming my successor; he said Mr. Madison would be his first choice, but that he had always expressed to him such a decision against public office, that he could not expect he would undertake it. Mr. Jay would prefer his present office. He said that Mr. Jay had a great opinion of the talents of Mr. King; that there was also Mr. Smith of South Carolina, and E. Rutledge; but he observed, that name whom he would, some objections would be made, some would be called speculators, some one thing, some another; and he asked me to mention any characters occurring to me. I asked him if Governor Johnson of Maryland had occurred to him? He said he had; that he was a man of great good sense, an honest man, and he believed, clear of speculations; but this, says he, is an instance of what I was observing; with all these qualifications, Governor Johnson, from a want of familiarity with foreign affairs, would be in them like a fish out of water; everything would be new to him, and he awkward in everything. I confessed to him that I had considered Johnson rather as fit for the Treasury Department. Yes, says he, for that he would be the fittest appointment that could be made; he is a man acquainted with figures, and having as good a knowledge of the resources

of this country as any man. I asked him if Chancellor Livingston had occurred to him? He said yes; but he was from New York, and to appoint him while Hamilton was in, and before it should be known he was going out, would excite a newspaper conflagration, as the ultimate arrangement would not be known. He said McLurg had occurred to him as a man of first-rate abilities, but it is said that he is a speculator. He asked me what sort of a man Wolcott was. I told him I knew nothing of him myself; I had heard him characterized as a cunning man. I asked him whether some person could not take my office *par interim*, till he should make an appointment, as Mr. Randolph, for instance. Yes, says he, but there you would raise the expectation of keeping it, and I do not know that he is fit for it, nor what is thought of Mr. Randolph. I avoided noticing the last observation, and he put the question to me directly. I then told him, I went into society so little as to be unable to answer it: I knew that the embarrassments in his private affairs had obliged him to use expedients, which had injured him with the merchants and shop-keepers, and affected his character of independence; that these embarrassments were serious, and not likely to cease soon. He said if I would only stay in till the end of another quarter (the last of December) it would get us through the difficulties of this year, and he was satisfied that the affairs of Europe would be settled with this campaign; for that either France would be overwhelmed by it, or the confederacy would give up the contest. By that time, too, Congress will have manifested its character and view. I told him that I had set my private affairs in motion in a line which had powerfully called for my presence the last spring, and that they had suffered immensely from my not going home; that I had now calculated them to my return in the fall, and to fail in going then, would be the loss of another year, and prejudicial beyond measure. I asked him whether he could not name Governor Johnson to my office, under an express arrangement that at the close of the session he should take that of the Treasury. He said that men never chose to descend; that being once in a higher department, he would not like to go into a lower one. He asked me whether

I could not arrange my affairs by going home. I told him I did not think the public business would admit of it; that there never was a day now in which the absence of the Secretary of State would not be inconvenient to the public. And he concluded by desiring that I would take two or three days to consider whether I could not stay in till the end of another quarter, for that like a man going to the gallows, he was willing to put it off as long as he could; but if I persisted, he must then look about him and make up his mind to do the best he could; and so he took leave.

August the 20th. We met at the President's to examine by paragraphs the draught of a letter I had prepared to Gouverneur Morris on the conduct of Mr. Genet. There was no difference of opinion on any part of it, except on this expression, "An attempt to embroil both, to add still another nation to the enemies of his country, and to draw on both a reproach which it is hoped will never stain the history of either, that of *liberty warring on herself*." Hamilton moved to strike out these words, "that of liberty warring on herself." He urged generally that it would give offence to the combined powers; that it amounted to a declaration that they were warring on liberty; that we were not called on to declare that the cause of France was that of liberty; that he had at first been with them with all his heart, but that he had long since left them, and was not for encouraging the idea here, that the cause of France was the cause of liberty in general, or could have either connection or influence in our affairs. Knox, according to custom, jumped plump into all his opinions. The President, with a good deal of positiveness, declared in favor of the expression; that he considered the pursuit of France to be that of liberty, however they might sometimes fail of the best means of obtaining it: that he had never at any time entertained a doubt of their ultimate success, if they hung well together; and that as to their dissensions, there were such contradictory accounts given, that no one could tell what to believe. I observed that it had been supposed among us all along that the present letter might become public; that we had there-

fore three parties to attend to,—1st, France; 2d, her enemies; 3d, the people of the United States; that as to the enemies of France, it ought not to offend them, because the passage objected to, only spoke of an attempt to make the United States, a *free nation*, war on France, a *free nation*, which would be liberty warring against liberty; that as to France, we were taking so harsh a measure (desiring her to recall her minister) that a precedent for it could scarcely be found; that we knew that minister would represent to his government that our executive was hostile to liberty, leaning to monarchy, and would endeavor to parry the charges on himself, by rendering suspicions the source from which they flowed; that, therefore, it was essential to satisfy France, not only of our friendship to her, but our attachment to the general cause of liberty, and to hers in particular; that as to the people of the United States, we knew there were suspicions abroad that the executive, in some of its parts, was tainted with a hankering after monarchy, an indisposition towards liberty, and towards the French cause; and that it was important, by an explicit declaration, to remove these suspicions, and restore the confidence of the people in their government. Randolph opposed the passage on nearly the same ground with Hamilton. He added, that he thought it had been agreed that this correspondence should contain no expressions which could give offence to either party. I replied that it had been my opinion in the beginning of the correspondence, that while we were censuring the conduct of the French minister, we should make the most cordial declarations of friendship to them; that in the first letter or two of the correspondence, I had inserted expressions of that kind, but that himself and the other two gentlemen had struck them out; that I thereupon conformed to their opinions in my subsequent letters, and had carefully avoided the insertion of a single term of friendship to the French nation, and the letters were as dry and husky as if written between the generals of two enemy nations; that on the present occasion, however, it had been agreed that such expressions ought to be inserted in the letter now under consideration, and I had accordingly charged it pretty well with them; that I had further

thought it essential to satisfy the French and our own citizens of the light in which we viewed their cause, and of our fellow feeling for the general cause of liberty, and had ventured only four words on the subject; that there was not from beginning to end of the letter one other expression or word in favor of liberty, and I should think it singular, at least, if the single passage of that character should be struck out.

The President again spoke. He came into the idea that attention was due to the two parties who had been mentioned, France and the United States; that as to the former, thinking it certain their affairs would issue in a government of some sort—of considerable freedom—it was the only nation with whom our relations could be counted on; that as to the United States, there could be no doubt of their universal attachment to the cause of France, and of the solidity of their republicanism. He declared his strong attachment to the expression, but finally left it to us to accommodate. It was struck out, of course, and the expressions of affection in the context were a good deal taken down.

August the 23d, 1793. In consequence of my note of yesterday to the President, a meeting was called this day at his house to determine what should be done with the proposition of France to treat. The importance of the matter was admitted; and being of so old a date as May 22d, we might be accused of neglecting the interests of the United States, to have left it so long unanswered, and it could not be doubted Mr. Genet would avail himself of this inattention. The President declared it had not been inattention, that it had been the subject of conversation often at our meetings, and the delay had proceeded from the difficulty of the thing.

If the struggles of France should end in the old despotism, the formation of such a treaty with the present government would be a matter of offence; if it should end in any kind of free government, he should be very unwilling, by inattention to their advances, to give offence, and lose the opportunity of procuring terms so advantageous to our country. He was, therefore,

for writing to Mr. Morris to get the powers of Mr. Genet renewed to his successor. [As he had expressed this opinion to me the afternoon before, I had prepared the draught of a letter accordingly.] But how to explain the delay? The Secretary of the Treasury observed on the letter of the National Convention, that as it did not seem to require an answer, and the matters it contained would occasion embarrassment if answered, he should be against answering it; that he should be for writing to Mr. Morris, mentioning our readiness to treat with them, and suggesting a renewal of Mr. Genet's powers to his successor, but not in as strong terms as I had done in my draught of the letter —not as a thing anxiously wished for by us, lest it should suggest to them the asking a price; and he was for my writing to Mr. Genet *now*, an answer to his letter of May 22d, referring to the meeting of the Senate the entering on the treaty. Knox concurred with him, the Attorney General also.—except that he was against suggesting the renewal of Mr. Genet's powers, because that would amount to a declaration that we would treat with that government, would commit us to lay the subject before the Senate, and his principle had ever been to do no act, not unavoidably necessary, which, in the event of a counter revolution, might offend the future governing powers of that country. I stated to them that having observed from our conversations that the propositions to treat might not be acceded to immediately, I had endeavored to prepare Mr. Genet for it, by taking occasion in conversations to apprize him of the control over treaties which our constitution had given to the Senate; that though this was indirectly done, (because not having been authorized to say anything official on the subject, I did not venture to commit myself directly,) yet, on some subsequent conversation, I found it had struck him exactly as I had wished; for, speaking on some other matter, he mentioned incidentally his propositions to treat, and said, however, as I know now that you cannot take up that subject till the meeting of the Senate, I shall say no more about it now, and so proceeded with his other subject, which I do not now recollect. I said I thought it possible by recalling the substance of these conversations to Mr.

Genet, in a letter to be written now, I might add that the Executive had at length come to a conclusion, that on account of the importance of the matter, they would await the meeting of the Senate; but I pressed strongly the urging Mr. Morris to procure a renewal of Genet's powers, that we might not lose the chance of obtaining so advantageous a treaty. Edmund Randolph had argued against our acceding to it, because it was too advantageous; so much so that they would certainly break it, and it might become the cause of war. I answered that it would be easy, in the course of the negociation, to cure it of its inequality by giving some compensation; but I had no fear of their revoking it, that the islanders themselves were too much interested in the concessions ever to suffer them to be revoked; that the best thinkers in France had long been of opinion that it would be for the interest of the mother country to let the colonies obtain subsistence wherever they could cheapest; that I was confident the present struggles in France would end in a free government of some sort, and that such a government would consider itself as growing out of the present one, and respect its treaties. The President recurred to the awkwardness of writing a letter now to Mr. Genet, in answer to his of May 22d; that it would certainly be construed as merely done with a design of exculpation of ourselves, and he would thence inculpate us. The more we reflected on this, the more the justice of the observation struck us. Hamilton and myself came into it—Knox still for the letter—Randolph half for it, half against it, according to custom.

It was at length agreed I should state the substance of my verbal observations to Mr. Genet, in a letter to Mr. Morris, and let them be considered as the answer intended; for being from the Secretary of State, they might be considered as official, though not in writing.

It is evident that taking this ground for their future justification to France and to the United States, they were sensible they had censurably neglected these overtures of treaty; for not only what I had said to Mr. Genet was without authority from them, but was never communicated to them till this day. To rest the

justification of delay on answers given, it is true in time; but of which they had no knowledge till now, is an ostensible justification only.

September the 4th, 1793. At a meeting held some days ago, some letters from the Governor of Georgia were read, in which a consultation of officers, and a considerable expedition against the Creeks was proposed. We were all of opinion no such expedition should be undertaken. My reasons were that such a war might bring on a Spanish, and even an English war; that for this reason the aggressions of the Creeks had been laid before the last Congress, and they had not chosen to declare war, therefore the Executive should not take on itself to do it; and that according to the opinions of Pickens and Blount, it was too late in the season.

I thought, however, that a temperate and conciliatory letter should be written to the Governor, in order that we might retain the disposition of the people of the State to assist in an expedition when undertaken. The other gentlemen thought a strong letter of disapprobation should be written. Such a one was this day produced, strong and reprehendatory enough, in which I thought were visible the personal enmities of Knox and Hamilton, against Telfair, Gun, and Jackson—the two last having been of the council of officers. The letter passed without objection, being of the complexion before determined.

Wayne's letter was read, proposing that six hundred militia should set out from Fort Pitt to attack certain Miami towns, while he marched against the principal towns. The President disapproved it, because of the difficulty of concerted movements at six hundred miles distance; because these six hundred men might, and probably would have the whole force of the Indians to contend with; and because the object was not worth the risking such a number of men. We all concurred. It appeared to me, further, that to begin an expedition from Fort Pitt, the very first order for which is to be given now, when we have reason to believe Wayne advanced as far as Fort Jefferson, would be either too late for his movements, or would retard

them very injuriously. [*Note.*—The letters from the Commissioners were now read, announcing the refusal of the Indians to treat, unless the Ohio were made the boundary; and that they were on their return.]

A letter from Governor Clinton read, informing of his issuing a warrant to arrest Governor Galbaud, at the request of the French Consul, and that he was lead to interfere because the judge of the district lived at Albany. It was proposed to write to the judge of the district, that the place of his residence was not adapted to his duties; and to Clinton, that Galbaud was not liable to arrest. Hamilton said, that by the laws of New York, the Governor has the powers of a justice of peace, and had issued the warrant as such.

I was against writing letters to judiciary officers. I thought them independent of the Executive, not subject to its coercion, and, therefore, not obliged to attend to its admonitions.

The other three were for writing the letters. They thought it the duty of the President to see that the laws were executed; and if he found a failure in so important an officer, to communicate it to the legislature for impeachment.

Edmund Randolph undertook to write the letters, and I am to sign them as if mine. The President brought forward the subject of the ports, and thought a new demand of answer should be made to Mr. Hammond. As we had not Mr. Hammond's last answer (of June 20th) on that subject, agreed to let it lie over to Monday.

Hammond proposed, that on Monday we should take into consideration the fortification of the rivers and ports of the United States, and that though the Executive could not undertake to do it, preparatory surveys should be made to be laid before Congress, to be considered on Monday.

The letters to Genet covering a copy of mine to Gov. Morris—of —— to the French consuls, threatening the revocation of their Exequaturs—to Mr. Pinckney on the additional instructions of Great Britain to their navy for shipping our corn, flour, &c., and to Gov. Morris on the similar order of the French National Assembly, are to be ready on Monday.

My letter to Mr. Hammond, in answer to his of August 30th, was read and approved. Hamilton wished not to narrow the ground of compensation so much as to cases after August 7th. Knox joined him, and by several observations showed he did not know what the question was. He could not comprehend that the letter of August 7th, which promised compensation (because we had not used all the means in our power for restricting), would not be contradicted by a refusal to compensate in cases after August 7th, where we should naturally use all the means in our power for restriction, and these means should be insufficient. The letter was agreed to on Mr. Randolph's opinion and mine; Hamilton acquiescing, Knox opposing.

At sundry meetings of the Heads of departments and Attorney General, from the 1st to the 28th of November, 1793, at the President's, several matters were agreed upon, as stated in the following letters from the Secretary of State, to wit:—

November the 8th. Circular letter to the representatives of France, Great Britain, Spain, and the United Netherlands, fixing provisionally the extent of our jurisdiction into the sea at a sea league.

10th. Circular letter to the district attorneys, notifying the same, and committing to them the taking depositions in those cases.

10th. Circular to the foreign representatives, notifying how depositions are to be taken in those cases.

The substance of the preceding letters was agreed to by all; the rough drafts were submitted to them and approved.

November the 14th. To Mr. Hammond, that the United States are not bound to restore the Rochampton. This was agreed by all. The rough draught was submitted to and approved by Colonel Hamilton and Mr. Randolph. General Knox was on a visit to Trenton.

10th. Letters to Mr. Genet and Hammond, and the 14th to Mr. Hollingsworth, for taking depositions in the cases of the Conningham and Pilgrim.

13th. Ditto, to Mr. Genet, Hammond, and Bowle, for depositions in the case of the William.

14th. Ditto, to Hollingsworth, to ascertain whether Mr Moissonier had passed sentenced on the Rochampton and Pilgrim.

These last-mentioned letters of the 10th, 13th, and 14th, were, as to their substance, agreed to by all, the draughts were only communicated to Mr. Randolph, and approved by him.

November the 13th. To Mr. Hammond, inquiring when we shall have an answer on the inexecution of the treaty. The substance agreed by all. The letter was sent off without communication, none of the gentlemen being at Germantown.

22d. To Mr. Genet, returning the commissions of Pennevert and Chervi, because not addressed to the President.

22d. To Mr. Genet, inquiring whether the Lovely-Lass, Prince William Henry, and Jane, of Dublin, have been given up; and if not, requiring that they be restored to owners. These were agreed to by all, as to their matter, and the letters themselves were submitted before they were sent to the President, the Secretary of War, and the Attorney-General.

22d. To Mr. Gore, for authentic evidence of Dannery's protest on the President's revocation of Duplaine's Exequatur. The substance agreed by all. The letter sent off before communication.

THOMAS JEFFERSON.
HENRY KNOX.
EDMUND RANDOLPH.
ALEXANDER HAMILTON.

November 23d, 1793.

November the 5th, 1793. E. Randolph tells me, that Hamilton, in conversation with him yesterday, said, "Sir, if all the people in America were now assembled, and to call on me to say whether I am a friend to the French revolution, I would declare that *I have it in abhorrence.*"

November the 8th, 1793. At a conference at the President's, where I read several letters of Mr. Genet; on finishing one of them, I asked what should be the answer? The President there-

upon took occasion to observe, that Mr. Genet's conduct continued to be of so extraordinary a nature, that he meant to propose to our serious consideration, whether he should not have his functions discontinued, and be ordered away? He went lengthily into observations on his conduct, to raise against the executive, 1, the people; 2, the State governments; 3, the Congress. He showed he felt the venom of Genet's pen, but declared he would not choose his insolence should be regarded any further, than as might be thought to affect the honor of the country. Hamilton and Knox readily and zealously argued for dismissing Mr. Genet. Randolph opposed it with firmness, and pretty lengthily. The President replied to him lengthily, and concluded by saying he did not wish to have the thing hastily decided, but that we should consider of it, and give our opinions on his return from Reading and Lancaster.

Accordingly, November the 18th, we met at his house; read new volumes of Genet's letters, received since the President's departure; then took up the discussion of the subjects of communication to Congress. 1. The Proclamation. E. Randolph read the statement he had prepared; Hamilton did not like it; said much about his own views: that the President had a right to declare his opinion to our citizens and foreign nations; that it was not the interest of this country to join in the war, and that we were under no obligation to join in it: that though the declaration would not legally bind Congress, yet the President had a right to give his opinion of it, and he was against any explanation in the speech, which should yield that he did not intend that foreign nations should consider it as a declaration of neutrality, future as well as present; that he understood it as meant to give them that sort of assurance and satisfaction, and to say otherwise now, would be a deception on them. He was for the President's using such expressions, as should neither affirm his right to make such a declaration to foreign nations, nor yield it. Randolph and myself opposed the right of the President to declare anything future on the question, shall there or shall there not be war, and that no such thing was intended; that Hamilton's construction of the effect of the proclamation, would have been a determination

of the question of the *guarantee*, which we both denied to have intended, and I had at the time declared the executive incompetent to. Randolph said he meant that foreign nations should understand it as an intimation of the President's opinion, that neutrality would be our interest. I declared my meaning to have been, that foreign nations should understand no such thing; that on the contrary, I would have chosen them to be doubtful, and to come and bid for our neutrality. I admitted the President, having received the nation at the close of Congress in a state of peace, was bound to preserve them in that state till Congress should meet again, and might proclaim anything which went no farther. The President declared he never had an idea that he could bind Congress against declaring war, or that anything contained in his proclamation could look beyond the first day of their meeting. His main view was to keep our people in peace; he apologized for the use of the term neutrality in his answers, and justified it, by having submitted the first of them (that to the merchants, wherein it was used) to our consideration, and we had not objected to the term. He concluded in the end, that Colonel Hamilton should prepare a paragraph on this subject for the speech, and it should then be considered. We were here called to dinner.

After dinner, the *renvoi* of Genet was proposed by himself. I opposed it on these topics. France, the only nation on earth sincerely our friend. The measure so harsh a one, that no precedent is produced where it has not been followed by war. Our messenger has now been gone eighty-four days: consequently, we may hourly expect the return, and to be relieved by their revocation of him. Were it now resolved on, it would be eight or ten days before the matter on which the order should be founded, could be selected, arranged, discussed, and forwarded. This would bring us within four or five days of the meeting of Congress. Would it not be better to wait and see how the pulse of that body, new as it is, would beat. They are with us now, probably, but such a step as this may carry many over to Genet's side. Genet will not obey the order, &c., &c. The President asked me what I would do if Genet sent the accusation to us to

be communicated to Congress, as he threatened in the letter to Moultrie? I said I would not sent it to Congress; but either put it in the newspapers, or send it back to him to be published if he pleased. Other questions and answers were put and returned in a quicker altercation than I ever before saw the President use. Hamilton was for the *renvoi;* spoke much of the dignity of the nation; that they were now to form their character: that our conduct now would tempt or deter other foreign ministers from treating us in the same manner; touched on the President's personal feelings; did not believe France would make it a cause of war; if she did, we ought to do what was right, and meet the consequences, &c. Knox on the same side, and said he thought it very possible Mr. Genet would either declare us a department of France, or levy troops here and endeavor to reduce us to obedience. Randolph of my opinion, and argued chiefly on the resurrection of popularity to Genet, which might be produced by this measure. That at present he was dead in the public opinion, if we would but leave him so. The president lamented there was not unanimity among us; that as it was, we had left him exactly where we found him; and so it ended.

November the 21st. We met at the President's. The manner of explaining to Congress the intentions of the proclamation, was the matter of debate. Randolph produced his way of stating it. This expressed its views to have been, 1, to keep our citizens quiet; 2, to intimate to foreign nations that it was the President's opinion, that the interests and dispositions of this country were for peace. Hamilton produced his statement, in which he declared his intention to be, to say nothing which could be laid hold of for any purpose; to leave the proclamation to explain itself. He entered pretty fully into all the argumentation of Pacificus; he justified the right of the President to declare his opinion for a *future neutrality*, and that there existed no circumstances to oblige the United States to enter into the war on account of the guarantee; and that in agreeing to the proclamation, he meant it to be understood as conveying both those declarations; viz. neutrality, and that the *casus fœderis* on the guarantee did

not exist. He admitted the Congress might declare war, notwithstanding these declarations of the President. In like manner, they might declare war in the face of a treaty, and in direct infraction of it. Among other positions laid down by him, this was with great positiveness; that the constitution having given power to the President and Senate to make treaties, they might make a treaty of neutrality which should take from Congress the right to declare war in that particular case, and that under the form of a treaty they might exercise any powers whatever, even those exclusively given by the constitution to the House of Representatives. Randolph opposed this position, and seemed to think that where they undertook to do acts by treaty, (as to settle a tariff of duties,) which were exclusively given to the Legislature, that an act of the Legislature would be necessary to confirm them, as happens in England, when a treaty interferes with duties established by law. I insisted that in giving to the President and Senate a power to make treaties, the constitution meant only to authorize them to carry into effect, by way of treaty, any powers they might constitutionally exercise. I was sensible of the weak points in this position, but there were still weaker in the other hypothesis; and if it be impossible to discover a rational measure of authority to have been given by this clause, I would rather suppose that the cases which my hypothesis would leave unprovided, were not thought of by the convention, or if thought of, could not be agreed on, or were thought of and deemed unnecessary to be invested in the government. Of this last description, were treaties of neutrality, treaties offensive and defensive, &c. In every event, I would rather construe so narrowly as to oblige the nation to amend, and thus declare what powers they would agree to yield, than too broadly, and indeed, so broadly as to enable the executive and Senate to do things which the constitution forbids. On the question, which form of explaining the principles of the proclamation should be adopted, I declared for Randolph's, though it gave to that instrument more objects than I had contemplated. Knox declared for Hamilton's. The President said he had had but one object, the keeping our people quiet till Congress should meet; that nevertheless, to declare he

did not mean a declaration of neutrality, in the technical sense of the phrase, might perhaps be crying *peccavi* before he was charged. However, he did not decide between the two draughts.

November the 23d. At the President's. Present, Knox, Randolph, and Th: Jefferson. Subject, the heads of the speech. One was, a proposition to Congress to fortify the principal harbors. I opposed the expediency of the General Government's undertaking it, and the expediency of the President's proposing it. It was amended, by substituting a proposition to adopt means for enforcing respect to the jurisdiction of the United States within its waters. It was proposed to recommend the establishment of a military academy. I objected that none of the specified powers given by the constitution to Congress, would authorize this. It was, therefore, referred for further consideration and inquiry. Knox was for both propositions. Randolph against the former, but said nothing as to the latter. The President acknowledged he had doubted of the expediency of undertaking the former; and as to the latter, though it would be a good thing, he did not wish to bring on anything which might generate heat and ill humor. It was agreed that Randolph should draw the speech and the messages.

November the 28th. Met at the President's. I read over a list of the papers copying, to be communicated to Congress on the subject of Mr. Genet. It was agreed that Genet's letter of August the 13th to the President, mine of August the 16th, and Genet's of November to myself and the Attorney General, desiring a prosecution of Jay and King should not be sent to the legislature: on a general opinion, that the discussion of the fact certified by Jay and King had better be left to the channel of the newspapers, and in the private hands in which it now is, than for the President to meddle in it, or give room to a discussion of it in Congress.

Randolph had prepared a draught of the speech. The clause recommending fortifications was left out; but that for a military

academy was inserted. I opposed it, as unauthorized by the constitution. Hamilton and Knox approved it without discussion. Randolph was for it, saying that the words of the constitution authorizing Congress to lay taxes, &c., *for the common defence*, might comprehend it. The President said he would not choose to recommend anything against the constitution, but if it was *doubtful*, he was so impressed with the necessity of this measure, that he would refer it to Congress, and let them decide for themselves whether the constitution authorized it or not. It was, therefore, left in. I was happy to see that Randolph had, by accident, used the expression "our republic," in the speech. The President, however, made no objection to it, and so, as much as it had disconcerted him on a former occasion with me, it was now put into his own mouth to be pronounced to the two Houses of legislature.

No material alterations were proposed or made in any part of the draught.

After dinner, I produced the draught of messages on the subject of France and England, proposing that that relative to Spain should be subsequent and secret.

Hamilton objected to the draught *in toto;* said that the contrast drawn between the conduct of France and England amounted to a declaration of war; he denied that France had ever done us favors; that it was mean for a nation to acknowledge favors; that the dispositions of the people of this country towards France, he considered as a serious calamity; that the executive ought not, by an echo of this language, to nourish that disposition in the people; that the offers in commerce made us by France, were the offspring of the moment, of circumstances which would not last, and it was wrong to receive as permanent, things merely temporary; that he could demonstate that Great Britain showed us more favors than France. In complaisance to him I whittled down the expressions without opposition; struck out that of "favors ancient and recent" from France; softened some terms, and omitted some sentiments respecting Great Britain. He still was against the whole, but insisted that, at any rate, it should be a secret communication, because the

matters it stated were still depending. These were, 1, the inexecution of the treaty; 2, the restraining our commerce to their own ports and those of their friends. Knox joined Hamilton in everything. Randolph was for the communications; that the documents respecting the first should be given in as public; but that those respecting the second should not be given to the legislature at all, but kept secret. I began to tremble now for the whole, lest all should be kept secret. I urged, especially, the duty now incumbent on the President, to lay before the legislature and the public what had passed on the inexecution of the treaty, since Mr. Hammond's answer of this month might be considered as the last we should ever have; that, therefore, it could no longer be considered as a negotiation pending. I urged that the documents respecting the stopping our corn ought also to go, but insisted that if it should be thought better to withhold them, the restrictions should not go to those respecting the treaty; that neither of these subjects was more in a state of *pendency* than the recall of Mr. Genet, on which, nevertheless, no scruples had been expressed. The President took up the subject with more vehemence than I have seen him show, and decided without reserve, that not only what had passed on the inexecution of the treaty should go in as public, (in which Hamilton and Knox had divided in opinion from Randolph and myself,) but also that those respecting the stopping our corn should go in as public, (wherein, Hamilton, Knox, and Randolph had been against me.) This was the first instance I had seen of his deciding on the opinion of one against that of three others, which proved his own to have been very strong.

December the 1st, 1793. Beckley tells me he had the following fact from Lear. Langdon, Cabot, and some others of the Senate, standing in a knot before the fire after the Senate had adjourned, and growling together about some measure which they had just lost; "Ah!" said Cabot, "things will never go right till you have a President for life, and an hereditary Senate." Langdon told this to Lear, who mentioned it to the President.

The President seemed struck with it, and declared he had not supposed there was a man in the United States who could have entertained such an idea.

March the 2d, 1797. I arrived at Philadelphia to qualify as Vice-President, and called instantly on Mr. Adams, who lodged at Francis's, in Fourth street. The next morning he returned my visit at Mr. Madison's, where I lodged. He found me alone in my room, and shutting the door himself, he said he was glad to find me alone, for that he wished a free conversation with me. He entered immediately on an explanation of the situation of our affairs with France, and the danger of rupture with that nation, a rupture which would convulse the attachments of this country; that he was impressed with the necessity of an immediate mission to the Directory; that it would have been the first wish of his heart to have got me to go there, but that he supposed it was out of the question, as it did not seem justifiable for him to send away the person destined to take his place in case of accident to himself, nor decent to remove from competition one who was a rival in the public favor. That he had, therefore, concluded to send a mission, which, by its dignity, should satisfy France, and by its selection from the three great divisions of the continent, should satisfy all parts of the United States; in short, that he had determined to join Gerry and Madison to Pinckney, and he wished me to consult Mr. Madison for him. I told him that as to myself, I concurred in the opinion of the impropriety of my leaving the post assigned me, and that my inclinations, moreover, would never permit me to cross the Atlantic again; that I would, as he desired, consult Mr. Madison, but I feared it was desperate, as he had refused that mission on my leaving it, in General Washington's time, though it was kept open a twelvemonth for him. He said that if Mr. Madison should refuse, he would still appoint him, and leave the responsibility on him. I consulted Mr. Madison, who declined as I expected. I think it was on Monday the 6th of March, Mr. Adams

and myself met at dinner at General Washington's, and we happened, in the evening, to rise from table and come away together. As soon as we got into the street, I told him the event of my negotiation with Mr. Madison. He immediately said, that, on consultation, some objections to that nomination had been raised which he had not contemplated; and was going on with excuses which evidently embarrassed him, when we came to Fifth street, where our road separated, his being down Market street, mine off along Fifth, and we took leave; and he never after that said one word to me on the subject, or ever consulted me as to any measures of the government. The opinion I formed at the time on this transaction, was, that Mr. Adams, in the first moments of the enthusiasm of the occasion, (his inauguration,) forgot party sentiments, and as he never acted on any system, but was always governed by the feeling of the moment, he thought, for a moment, to steer impartially between the parties; that Monday, the 6th of March, being the first time he had met his cabinet, on expressing ideas of this kind, he had been at once diverted from them, and returned to his former party views.

July, 1797. Murray is rewarded for his services by an appointment to Amsterdam; W. Smith of Charleston, to Lisbon.

August the 24th. About the time of the British treaty, Hamilton and Talleyrand, bishop of Autun, dined together, and Hamilton drank freely. Conversing on the treaty, Talleyrand says, "mais vraiment Monsieur Hamilton, ce n'est pas *bien honnete*, after making the Senate ratify the treaty, to advise the President to reject it." "The treaty," says Hamilton, "is an execrable one, and Jay was an old woman for making it; but the whole credit of saving us from it must be given to the President." After circumstances had led to a conclusion that the President also must ratify it, he said to the same Talleyrand, "though the treaty is a most execrable one, yet when once we have come to a determination on it, we must carry it through

thick and thin, right or wrong." Talleyrand told this to Volney, who told it to me.

There is a letter now appearing in the papers, from Pickering to Monroe, dated July the 24th, 1797, which I am satisfied is written by Hamilton. He was in Philadelphia at that date.

December the 26th, 1797. Langdon tells me, that at the second election of President and Vice-President of the United States, when there was a considerable vote given to Clinton in opposition to Mr. Adams, he took occasion to remark it in conversation in the Senate chamber with Mr. Adams, who, gritting his teeth, said, "damn 'em, damn 'em, damn 'em, you see that an elective government will not do." He also tells me that Mr. Adams, in a late conversation, said, "republicanism must be disgraced, Sir." The Chevalier Yruho called on him at Braintree, and conversing on French affairs, and Yruho expressing his belief of their stability, in opposition to Mr. Adams, the latter lifting up and shaking his finger at him, said, "I'll tell you what, the French republic will not last three months." This I had from Yruho.

Harper, lately in a large company, was saying that the best thing the friends of the French could do, was to pray for the restoration of their monarch. "Then," says a bystander, "the best thing we could do, I suppose, would be to pray for the establishment of a monarch in the United States." "Our people," says Harper, "are not yet ripe for it, but it is the best thing we can come to, and we shall come to it." Something like this was said in presence of Findlay. He now denies it in the public papers, though it can be proved by several members.

December the 27th. Tenche Coxe tells me, that a little before Hamilton went out of office, or just as he was going out, taking with him his last conversation, and among other things, on the subject of their differences, "for my part," says he, "I avow myself a monarchist; I have no objection to a trial being made of this thing of a republic, but," &c.

January the 5th, 1798. I receive a very remarkable fact indeed in our history, from Baldwin and Skinner. Before the establishment of our present government, a very extensive combination had taken place in New York and the eastern States, among that description of people who were partly monarchical in principle, or frightened with Shay's rebellion and the impotence of the old Congress. Delegates in different places had actually had consultations on the subject of seizing on the powers of a government, and establishing them by force; had corresponded with one another, and had sent a deputy to General Washington to solicit his co-operation. He refused to join them. The new convention was in the meantime proposed by Virginia and appointed. These people believed it impossible the States should ever agree on a government, as this must include the impost and all the other powers which the States had, a thousand times, refused to the general authority. They therefore let the proposed convention go on, not doubting its failure, and confiding that on its failure would be a still more favorable moment for their enterprise. They therefore wished it to fail, and especially, when Hamilton, their leader, brought forward his plan of government, failed entirely in carrying it, and retired in disgust from the convention. His associates then took every method to prevent any form of government being agreed to. But the well-intentioned never ceased trying, first one thing, then another, till they could get something agreed to. The final passage and adoption of the constitution completely defeated the views of the combination, and saved us from an attempt to establish a government over us by force. This fact throws a blaze of light on the conduct of several members from New York and the eastern States in the convention of Annapolis, and the grand convention. At that of Annapolis, several eastern members most vehemently opposed Madison's proposition for a more general convention, with more general powers. They wished things to get more and more into confusion, to justify the violent measure they proposed. The idea of establishing a government by reasoning and agreement, they publicly ridiculed as an Utopian project, visionary and unexampled.

Februar the 6th, 1798. Mr. Baldwin tells me that in a conversation yesterday with Goodhue, on the state of our affairs, Goodhue said, "I'll tell you what, I have made up my mind on this subject; I would rather the old ship should go down than not;" (meaning the Union of the States.) Mr. Hillhouse coming up, "well," says Mr. Baldwin, "I'll tell my old friend Hillhouse what you say;" and he told him. "Well," says Goodhue, "I repeat that I would rather the old ship should go down, if we are to be always kept pumping so." "Mr. Hillhouse," says Baldwin, "you remember when we were learning logic together at school, there was the case *categorical* and the case *hypothetical*. Mr. Goodhue stated it to me first as the case categorical. I am glad to see that he now changes it to the case hypothetical, by adding, 'if we are always to be kept pumping so.'" Baldwin went on then to remind Goodhue what an advocate he had been for our tonnage duty, wanting to make it one dollar instead of fifty cents; and how impatiently he bore the delays of Congress in proceeding to retaliate on Great Britain before Mr. Madison's propositions came on. Goodhue acknowledged that his opinions had changed since that.

February the 15th, 1798. I dined this day with Mr. Adams, (the President.) The company was large. After dinner I was sitting next to him, and our conversation was first on the enormous price of labor,* house rent, and other things. We both concurred in ascribing it chiefly to the floods of bank paper now afloat, and in condemning those institutions. We then got on the constitution; and in the course of our conversation he said, that no republic could ever last which had not a Senate, and a Senate deeply and strongly rooted, strong enough to bear up against all popular storms and passions; that he thought our Senate as well constituted as it could have been, being chosen by the legislatures; for if these could not support them, he did not know what could do it; that perhaps it might have been as

* He observed, that eight or ten years ago, he gave only fifty dollars to a common laborer for his farm, finding him food and lodging. Now he gives one hundred and fifty dollars, and even two hundred dollars to one.

well for them to be chosen by the State at large, as that would insure a choice of distinguished men, since none but such could be known to a whole people; that the only fault in our Senate was, that it was not durable enough; that hitherto, it had behaved very well; however, he was afraid they would give way in the end. That as to trusting to a popular assembly for the preservation of our liberties, it was the merest chimera imaginable; they never had any rule of decision but their own will; that he would as lieve be again in the hands of our old committees of safety, who made the law and executed it at the same time; that it had been observed by some writer, (I forget whom he named,) that anarchy did more mischief in one night, than tyranny in an age; and that in modern times we might say with truth, that in France, anarchy had done more harm in one night, than all the despotism of their Kings had ever done in twenty or thirty years. The point in which he views our Senate, as the colossus of the constitution, serves as a key to the politics of the Senate, who are two-thirds of them in his sentiments, and accounts for the bold line of conduct they pursue.

March the 1st. Mr. Tazewell tells me, that when the appropriations for the British treaty were on the carpet, and very uncertain in the lower House, there being at that time a number of bills in the hands of committees of the Senate, none reported, and the Senate idle for want of them, he, in his place, called on the committees to report, and particularly on Mr. King, who was of most of them. King said that it was true the committees kept back their reports, waiting the event of the question about appropriation; that if that was not carried, they considered legislation as at an end; that they might as well break up and consider the Union as dissolved. Tazewell expressed his astonishment at these ideas, and called on King to know if he had misapprehended him. King rose again and repeated the same words. The next day, Cabot took an occasion in debate, and so awkward a one as to show it was a thing agreed to be done, to repeat the same sentiments in stronger terms, and carried fur-

ther, by declaring a determination on their side to break up and dissolve the government.

March the 11th. In conversation with Baldwin, and Brown of Kentucky, Brown says that in a private company once, consisting of Hamilton, King, Madison, himself, and some one else making a fifth, speaking of the "*federal government;*" "Oh!" says Hamilton, "say the *federal monarchy*, let us call things by their right names, for a monarchy it is."

Baldwin mentions at table the following fact: When the bank bill was under discussion in the House of Representatives, Judge Wilson came in, and was standing by Baldwin. Baldwin reminded him of the following fact which passed in the grand convention: Among the enumerated powers given to Congress, was one to erect corporations. It was, on debate, struck out. Several particular powers were then proposed. Among others, Robert Morris proposed to give Congress a power to establish a national bank. Gouverneur Morris opposed it, observing that it was extremely doubtful whether the constitution they were framing could ever be passed at all by the people of America; that to give it its best chance, however, they should make it as palatable as possible, and put nothing into it not very essential, which might raise up enemies; that his colleague (Robert Morris) well knew that "a bank" was, in their State, (Pennsylvania,) the very watch-word of party; that *a bank* had been the great bone of contention between the two parties of the State from the establishment of their constitution, having been erected, put down, and erected again, as either party preponderated: that therefore, to insert this power, would instantly enlist against the whole instrument, the whole of the anti-bank party in Pennsylvania. Whereupon it was rejected, as was every other special power, except that of giving copyrights to authors, and patents to inventors; the general power of incorporating being whittled down to this shred. Wilson agreed to the fact.

Mr. Hunter, of South Carolina, who lodges with Rutledge,* tells me that Rutledge was explaining to him the plan they pro-

* J. Rutledge, junior.

posed to pursue as to war measures when Otis came in. Rutledge addressed Otis. Now, sir, says he, you must come forward with something liberal for the southern States, fortify their harbors, and build gallies, in order to obtain their concurrence. Otis said, we insist on convoys for our European trade, and *guarda costas*, on which condition alone we will give them gallies and fortifications. Rutledge observed, that in the event of war, McHenry and Pickering must go out; Wolcott, he thought, might remain, but the others were incapable of conducting a war. Otis said the eastern people would never abandon Pickering, he must be retained; McHenry might go. They considered together whether General Pinckney would accept the office of Secretary of War. They apprehended he would not. It was agreed in this conversation that Sewall had more the ear of the President than any other person.

March the 12th. When the bill for appropriations was before the Senate, Anderson moved to strike out a clause recognizing (by way of appropriation) the appointment of a committee by the House of Representatives to sit during their recess to collect evidence on Blount's case, denying they had power, but by a law, to authorize a committee to sit during recess. Tracy advocated the motion, and said, "We may as well speak out. The committee was appointed by the House of Representatives to take care of the British minister, to take care of the Spanish minister, to take care of the Secretary of State, in short, to take care of the President of the United States. They were afraid the President and Secretary of State would not perform the office of collecting evidence faithfully; that there would be collusion, &c. Therefore, the House appointed a committee of their own. We shall have them next sending a committee to Europe to make a treaty, &c. Suppose that the House of Representatives should resolve, that after the adjournment of Congress, they should continue to sit as a committee of the whole House during the whole recess." This shows how the appointment of that committee has been viewed by the President's friends.

April the 5th. Doctor Rush tells me he had it from Mrs. Adams, that not a scrip of a pen has passed between the late and present President since he came into office.

April the 13th. New instructions of the British government to their armed ships now appear, which clearly infringe their treaty with us, by authorizing them to take our vessels carrying produce of the French colonies from those colonies to Europe, and to take vessels bound to a blockaded port. See them in Brown's paper, of April the 18th, in due form.

The President has sent a government brig to France, probably to carry despatches. He has chosen as the bearer of these one Humphreys, the son of a ship carpenter, ignorant, under age, not speaking a word of French, most abusive of that nation, whose only merit is, the having mobbed and beaten Bache on board the frigate built here, for which he was indicted and punished by fine.

April the 25th. At a dinner given by the bar to the federal judges, Chase and Peters, present about twenty-four lawyers, and William Tilghman in the chair, this toast was given, "Our *King* in old England." Observe the double *entendre* on the word King. Du Ponceau, who was one of the bar present, told this to Tenche Coxe, who told me in presence of H. Tazewell. Dallas was at the dinner; so was Colonel Charles Sims, of Alexandria, who is here on a lawsuit *vs.* General Irving.

May the 3d. The President some time ago appointed Steele, of Virginia, a commissioner to the Indians, and recently Secretary of the Mississippi Territory. Steele was a Counsellor of Virginia, and was voted out by the Assembly because he turned tory. He then offered for Congress, and was rejected by the people. Then offered for the Senate of Virginia, and was rejected. The President has also appointed Joseph Hopkinson commissioner to make a treaty with the Oneida Indians. He is a youth of about twenty-two or twenty-three, and has no other claims to such an appointment than extreme toryism, and the having made a poor song to the tune of the President's March.

October the 13th, 1798. Littlepage, who has been on one or two missions from Poland to Spain, said that when Gardoqui returned from America, he settled with his court an account of secret service money of six hundred thousand dollars. *Ex-relatione* Colonel Monroe.

January, 1799. In a conversation between Dr. Ewen and the President, the former said one of his sons was an aristocrat, the other a democrat. The President asked if it was not the youngest who was the democrat. "Yes," said Ewen. "Well," said the President, "a boy of fifteen who is not a democrat is good for nothing, and he is no better who is a democrat at twenty." Ewen told Hurt, and Hurt told me.

January the 14th. Logan tells me that in his conversation with Pickering on his arrival, the latter abused Gerry very much; said he was a traitor to his country, and had deserted the post to which he was appointed; that the French temporized at first with Pinckney, but found him too much of a man for their purpose. Logan observing, that notwithstanding the pacific declarations of France, it might still be well to keep up the military ardor of our citizens, and to have the militia in good order; "the militia," said Pickering, "the militia never did any good to this country, except in the single affair of Bunker Hill; that we must have a standing army of fifty thousand men, which being stationed in different parts of the continent, might serve as rallying points for the militia, and so render them of some service." In his conversation with Mr. Adams, Logan mentioned the willingness of the French to treat with Gerry. "And do you know why," said Mr. Adams. "Why, sir?" said Logan. "Because," said Mr. Adams, "they know him to have been an anti-federalist, against the constitution."

January the 2d, 1800. Information from Tenche Coxe. Mr. Liston had sent two letters to the Governor of Canada by one Sweezy. He had sent copies of them, together with a third (original) by one Cribs. Sweezy was arrested (being an old

horse thief), and his papers examined. T. Coxe had a sight of them. As soon as a rumor got out that there were letters of Mr. Liston disclosed, but no particulars yet mentioned, Mr. Liston suspecting that *Cribs* had betrayed him, thought it best to bring all his *three* letters, and lay them before Pickering, Secretary of State. Pickering thought them all very innocent. In his office they were seen by a Mr. Hodgen of New Jersey, commissary of military stores, and the intimate friend of Pickering. It happens that there is some land partnership between Pickering, Hodgen and Coxe, so that the latter is freely and intimately visited by Hodgen, who, moreover, speaks freely with him on political subjects. They were talking the news of the day, when Mr. Coxe observed that these intercepted letters of Liston were serious things; (nothing being yet out but a general rumor.) Hodgen asked which he thought the most serious. Coxe said the second; (for he knew yet of no other.) Hodgen said he thought little of any of them, but that the third was the most exceptionable. This struck Coxe, who, not betraying his ignorance of a third letter, asked generally what part of that he alluded to. Hodgen said to that wherein he *assured the Governor of Canada, that if the French invaded Canada, an army would be marched from these States to his assistance.* After this it became known that it was Sweezy who was arrested, and not Cribs; so that Mr. Liston had made an unnecessary disclosure of his third letter to Mr. Pickering, who, however, keeps his secret for him. In the beginning of the conversation between Hodgen and Coxe, Coxe happened to name Sweezy as the bearer of the letters. "That's not his name," says Hodgen (for he did not know that two of the letters had been sent by Sweezy also), "his name is Cribs." This put Coxe on his guard, and sent him fishing for the new matter.

January the 10th. Doctor Rush tells me that he had it from Samuel Lyman, that during the X Y Z Congress, the federal members held the largest caucus they have ever had, at which he was present, and the question was proposed and debated, whether

they should declare war against France, and determined in the negative. Lyman was against it.

He tells me, that Mr. Adams told him, that when he came on in the fall to Trenton, he was there surrounded constantly by the opponents of the late mission to France. That Hamilton pressing him to delay it, said, "Why, sir, by Christmas, Louis the XVIII. will be seated on his throne." Mr. A. "By whom?" H. "By the coalition." Mr. A. "Ah! then farewell to the independence of Europe. If a coalition moved by the finger of England, is to give a government to France, there is an end to the independence of every country."

January the 12th. General Samuel Smith says that Pickering, Wolcott, and McHenry, wrote a joint letter from Trenton to the President, then at Braintree, dissuading him from the mission to France. Stoddard refused to join in it. Stoddard says the instructions are such, that if the Directory have any disposition to reconciliation, a treaty will be made. He observed to him, also, that Ellsworth looks beyond this mission to the Presidential chair. That with this view, he will endeavor to make a treaty, and a good one. That Davie has the same vanity and views. All this communicated by Stoddard to S. Smith.

January the 13th. Baer and Harrison G. Otis told J. Nicholas, that in the caucus mentioned ante 10th, there wanted but five votes to produce a declaration of war. Baer was against it.

January the 19th. W. C. Nicholas tells me, that in a conversation with Dexter three or four days ago, he asked Dexter whether it would not be practicable for the States to agree on some uniform mode of choosing electors of President. Dexter said, "I suppose you would prefer an election by districts." "Yes," said Nicholas, "I think it would be best; but would nevertheless agree to any other consistent with the constitution." Dexter said he did not know what might be the opinion of his State, but his own was, that no mode of *election* would answer any good purpose; that he should prefer one *for life*. "On that

reasoning," said Nicholas, "you should prefer an hereditary one." "No," he said, "we are not ripe for that yet. I suppose," added he, "this doctrine is not very popular with you." "No," said Nicholas, "it would effectually damn any man in my State." "So it would in mine," said Dexter; "but I am under no inducement to belie my sentiment, I have nothing to ask from anybody; I had rather be at home than here, therefore I speak my sentiments freely." Mr. Nicholas, a little before or after this, made the same proposition of a uniform election to Ross, who replied that he saw no good in any kind of election. "Perhaps," said he, "the present one may last awhile." On the whole, Mr. Nicholas thinks he perceives in that party, a willingness and a wish to let everything go from bad to worse, to amend nothing, in hopes it may bring on confusion, and open a door to the kind of government they wish. In a conversation with Gunn, who goes with them, but thinks in some degree with us, Gunn told him that the very game which the minority of Pennsylvania is now playing with McKean, (see substitute of minority in lower House, and address of Senate in upper,) was meditated by the same party in the federal government, in case of the election of a republican President; and that the eastern States would in that case throw things into confusion, and break the Union. That they have in a great degree got rid of their paper, so as no longer to be creditors, and the moment they cease to enjoy the plunder of the immense appropriations now exclusively theirs, they would aim at some other order of things.

January the 24th. Mr. Smith, a merchant of Hamburg, gives me the following information: The St. Andrew's Club of New York, (all of Scotch tories,) gave a public dinner lately. Among other guests, Alexander Hamilton was one. After dinner, the first toast was, "The President of the United States." It was drank without any particular approbation. The next was, "George the Third." Hamilton started up on his feet, and insisted on a bumper and three cheers. The whole company accordingly rose and gave the cheers. One of them, though a federalist, was so disgusted at the partiality shown by Hamil-

ton to a foreign sovereign over his own President, that he mentioned it to a Mr. Schwarthouse, an American merchant of New York, who mentioned it to Smith.

Mr. Smith also tells me, that calling one evening on Mr. Evans, then Speaker of the House of Representatives of Pennsylvania, and asking the news, Evans said, Harper had been just there, and speaking of the President's setting out to Braintree, said, "he prayed to God that his horses might run away with him, or some other accident happen to break his neck before he reached Braintree." This was indignation at his having named Murray, &c., to negotiate with France. Evans approved of the wish.

February the 1st. Doctor Rush tells me that he had it from Asa Green, that when the clergy addressed General Washington on his departure from the government, it was observed in their consultation, that he had never, on any occasion, said a word to the public which showed a belief in the Christian religion, and they thought they should so pen their address, as to force him at length to declare publicly whether he was a Christian or not. They did so. However, he observed, the old fox was too cunning for them. He answered every article of their address particularly except that, which he passed over without notice. Rush observes, he never did say a word on the subject in any of his public papers, except in his valedictory letter to the Governors of the States, when he resigned his commission in the army, wherein he speaks of "the benign influence of the Christian religion."

I know that Gouverneur Morris, who pretended to be in his secrets and believed himself to be so, has often told me that General Washington believed no more of that system than he himself did.

March, 1800. Heretical doctrines maintained in Senate, on the motion against the Aurora. That there is in every legal body of men a right of self-preservation, authorizing them to do whatever is necessary for that purpose: by Tracy, Read, and

Lawrence. That the common law authorizes the proceeding proposed against the Aurora, and is in force here: by Read. That the privileges of Congress are and ought to be indefinite: by Read.

Tracy says, he would not say exactly that the common law of England in all its extent is in force here; but common sense, reason and morality, which are the foundations of the common law, are in force here, and establish a common law. He held himself so nearly half way between the common law of England and what everybody else has called natural law, and not common law, that he could hold to either the one or the other, as he should find expedient.

Dexter maintained that the common law, as to crimes, is in force in the United States.

Chipman says, that the principles of common right are common law.

March the 11th. Conversing with Mrs. Adams on the subject of the writers in the newspapers, I took occasion to mention that I never in my life had, directly or indirectly, written one sentence for a newspaper; which is an absolute truth. She said that Mr. Adams, she believed, had pretty well ceased to meddle in the newspapers, since he closed the pieces on Davila. This is the first direct avowal of that work to be his, though long and universally understood to be so.

March the 14th. Freneau, in Charleston, had the printing of the laws in his paper. He printed a pamphlet of Pinckney's letters on Robbins' case. Pickering has given the printing of the laws to the tory paper of that place, though not of half the circulation. The printing amounted to about one hundred dollars a year.

March the 24th. Mr. Perez Morton of Massachusetts tells me that Thatcher, on his return from the war Congress, declared to him he had been for a declaration of war against France, and many others also; but that on counting noses they found they could not carry it, and therefore did not attempt it.

March the 27th. Judge Breckenridge gives me the following information: He and Mr. Ross were originally very intimate; indeed, he says, he found him keeping a little Latin school, and advised and aided him in the study of law, and brought him forward. After Ross became a Senator, and particularly at the time of the western insurrection, they still were in concert. After the British treaty, Ross, on his return, informed him there was a party in the United States who wanted to overturn the government, who were in league with France; that France, by a secret article of treaty with Spain was to have Louisiana; and that Great Britain was likely to be our best friend and dependence. On this information, he, Breckenridge, was induced to become an advocate for the British treaty. During this intimacy with Ross, he says, that General Collot, in his journey to the western country, called on him, and he frequently led Breckenridge into conversations on their grievances under the government, and particularly the western expedition; that he spoke to him of the advantages that country would have in joining France when she should hold Louisiana; showed him a map he had drawn of that part of the country; pointed out the passes in the mountain, and the facility with which they might hold them against the United States, and with which France could support them from New Orleans. He says, that in these conversations, Collet let himself out with common prudence. He says, Michaud, (to whom I, at the request of Genet, had given a letter of introduction to the Governor of Kentucky as a botanist, which was his real profession,) called on him; that Michaud had a commissary's commission for the expedition, which Genet had planned from that quarter against the Spaniards; that ———, the late Spanish commandant of St. Genevieve, with one Powers, an Englishman, called on him. That from all these circumstances, together with Ross' stories, he did believe that there was a conspiracy to deliver our country, or some part of it at least, to the French; that he made notes of what passed between himself and Collot and the others, and lent them to Mr. Ross, who gave them to the President, by whom they were deposited in the office of the Board of War; that when he com-

plained to Ross of this breach of confidence, he endeavored to get off by compliments on the utility and importance of his notes. They now cooled towards each other; and his opposition to Ross's election as Governor has separated them in truth, though not entirely to appearance.

Doctor Rush tells me, that within a few days he has heard a member of Congress lament our separation from Great Britain, and express his sincere wishes that we were again dependent on her.

December the 25th, 1800. Colonel Hitchburn tells me what Col. Monroe had before told me of, as coming from Hitchburn. He was giving me the characters of persons in Massachusetts. Speaking of Lowell, he said he was, in the beginning of the Revolution, a timid whig, but as soon as he found we were likely to prevail, he became a great office hunter. And in the very breath of speaking of Lowell, he stopped: says he, I will give you a piece of information which I do not venture to speak of to others. There was a Mr. Hale in Massachusetts, a reputable, worthy man, who becoming a little embarrassed in his affairs, I aided him, which made him very friendly to me. He went to Canada on some business. The Governor there took great notice of him. On his return, he took occasion to mention to me that he was authorized by the Governor of Canada to give from three to five thousand guineas each to himself and some others, to induce them, not to do anything to the injury of their country, but to befriend a good connection between England and it. Hitchburn said he would think of it, and asked Hale to come and dine with him to-morrow. After dinner he drew Hale fully out. He told him he had his doubts, but particularly, that he should not like to be alone in such a business. On that, Hale named to him four others who were to be engaged, two of whom, said Hitchburn, are now dead, and two living. Hitchburn, when he had got all he wanted out of Hale, declined in a friendly way. But he observed those four men, from that moment, to espouse the interests of England in every point and on every occasion. Though he did not name the men to me, yet as the speaking of

Lowell was what brought into his head to tell me this anecdote, I concluded he was one. From other circumstances respecting Stephen Higginson, of whom he spoke, I conjectured him to be the other living one.

December the 26th. In another conversation, I mentioned to Colonel Hitchburn, that though he had not named names, I had strongly suspected Higginson to be one of Hale's men. He smiled and said, if I had strongly suspected any man wrongfully from his information, he would undeceive me; that there were no persons he thought more strongly to be suspected himself, than Higginson and Lowell. I considered this as saying they were the men. Higginson is employed in an important business about our navy.

February the 12th, 1801. Edward Livingston tells me, that Bayard applied to day or last night to General Samuel Smith, and represented to him the expediency of his coming over to the States who vote for Burr, that there was nothing in the way of appointment which he might not command, and particularly mentioned the Secretaryship of the Navy. Smith asked him if he was authorized to make the offer. He said he was authorized. Smith told this to Livingston, and to W. C. Nicholas who confirms it to me. Bayard in like manner tempted Livingston, not by offering any particular office, but by representing to him his, Livingston's, intimacy and connection with Burr; that from him he had everything to expect, if he would come over to him. To Doctor Linn of New Jersey, they have offered the government of New Jersey. See a paragraph in Martin's Baltimore paper of February the 10th, signed, "A LOOKER ON," stating an intimacy of views between Harper and Burr.

February the 14th. General Armstrong tells me, that Gouverneur Morris, in conversation with him to-day on the scene which is passing, expressed himself thus. "How comes it," says he, "that Burr who is four hundred miles off, (at Albany,) has agents here at work with great activity, while Mr. Jeffer-

son, who is on the spot, does nothing ?" This explains the ambiguous conduct of himself and his nephew, Lewis Morris, and that they were holding themselves free for a prize ; *i. e.*, some office, either to the uncle or nephew.

February the 16th. See in the Wilmington Mirror of February the 14th, Mr. Bayard's elaborate argument to prove that the common law, as modified by the laws of the respective States at the epoch of the ratification of the constitution, attached to the courts of the United States.

June the 23d, 1801. Andrew Ellicot tells me, that in a conversation last summer with Major William Jackson of Philadelphia, on the subject of our intercourse with Spain, Jackson said we had managed our affairs badly ; that he himself was the author of the papers against the Spanish ministers signed Americanus ; that his object was irritation ; that he was anxious, if it could have been brought about, to have plunged us in a war with Spain, that the people might have been occupied with that, and not with the conduct of the administration, and other things they had no business to meddle with.

December the 13th, 1803. The Reverend Mr. Coffin of New England, who is now here soliciting donations for a college in Greene county, in Tennessee, tells me that when he first determined to engage in this enterprise, he wrote a paper recommendatory of the enterprise, which he meant to get signed by clergymen, and a similar one for persons in a civil character, at the head of which he wished Mr. Adams to put his name, he being then President, and the application going only for his name, and not for a donation. Mr. Adams, after reading the paper and considering, said, " he saw no possibility of continuing the union of the States ; that their dissolution must necessarily take place ; that he therefore saw no propriety in recommending to New England men to promote a literary institution in the south ; that

it was in fact giving strength to those who were to be their enemies; and, therefore, he would have nothing to do with it."

December the 31st. After dinner to-day, the pamphlet on the conduct of Colonel Burr being the subject of conversation, Matthew Lyon noticed the insinuations against the republicans at Washington, pending the Presidential election, and expressed his wish that everything was spoken out which was known; that it would then appear on which side there was a bidding for votes, and he declared that John Brown of Rhode Island, urging him to vote for Colonel Burr, used these words: "What is it you want, Colonel Lyon? Is it office, is it money? Only say what you want, and you shall have it."

January the 2d, 1804. Colonel Hitchburn of Massachusetts, reminding me of a letter he had written me from Philadelphia, pending the Presidential election, says he did not therein give the details. That he was in company at Philadelphia with Colonel Burr and * * * * * * * * * that in the course of the conversation on the election, Colonel Burr said, "we must have a President, and a constitutional one, in some way." "How is it to be done," says Hitchburn; "Mr. Jefferson's friends will not quit him, and his enemies are not strong enough to carry another," "Why," says Burr, "our friends must join the federalists, and give the President." The next morning at breakfast, Colonel Burr repeated nearly the same, saying, "we cannot be without a President, our friends must join the federal vote." "But," says Hitchburn, "we shall then be without a Vide-President; who is to be our Vice-President?" Colonel Burr answered, "Mr. Jefferson."

January the 26th. Colonel Burr, the Vice-President, calls on me in the evening, having previously asked an opportunity of conversing with me. He began by recapitulating summarily, that he had come to New York a stranger, some years ago; that he found the country in possession of two rich families (the Livingstons and Clintons); that his pursuits were not political, and

he meddled not. When the crisis, however, of 1800 came on, they found their influence worn out, and solicited his aid with the people. He lent it without any views of promotion. That his being named as a candidate for Vice-President was unexpected by him. He acceded to it with a view to promote my fame and advancement, and from a desire to be with me, whose company and conversation had always been fascinating to him. That since, those great families had become hostile to him, and had excited the calumnies which I had seen published. That in this Hamilton had joined, and had even written some of the pieces against him. That his attachment to me had been sincere, and was still unchanged, although many little stories had been carried to him, and he supposed to me also, which he despised; but that attachments must be reciprocal or cease to exist, and therefore he asked if any change had taken place in mine towards him; that he had chosen to have this conversation with myself directly, and not through any intermediate agent. He reminded me of a letter written to him about the time of counting the votes, (say February, 1801,) mentioning that his election had left a chasm in my arrangements; that I had lost him from my list in the administration, &c. He observed, he believed it would be for the interest of the republican cause for him to retire; that a disadvantageous schism would otherwise take place; but that were he to retire, it would be said he shrunk from the public sentence, which he never would do; that his enemies were using my name to destroy him, and something was necessary from me to prevent and deprive them of that weapon, some mark of favor from me which would declare to the world that he retired with my confidence.

I answered by recapitulating to him what had been my conduct previous to the election of 1800. That I had never interfered directly or indirectly with my friends or any others, to influence the election either for him or myself; that I considered it as my duty to be merely passive, except that in Virginia, I had taken some measures to procure for him the unanimous vote of that State, because I thought any failure there might be imputed to me. That in the election now coming on, I was observing

the same conduct, held no councils with anybody respecting it, nor suffered any one to speak to me on the subject, believing it my duty to leave myself to the free discussion of the public; that I do not at this moment know, nor have ever heard, who were to be proposed as candidates for the public choice, except so far as could be gathered from the newspapers. That as to the attack excited against him in the newspapers, I had noticed it but as the passing wind; that I had seen complaints that Cheetham, employed in publishing the laws, should be permitted to eat the public bread and abuse its second officer; that as to this, the publishers of the laws were appointed by the Secretary of the State, without any reference to me; that to make the notice general, it was often given to one republican and one federal printer of the same place; that these federal printers did not in the least intermit their abuse of me, though receiving emoluments from the governments and that I have never thought it proper to interfere for myself, and consequently not in the case of the Vice-President. That as to the letter he referred to, I remembered it, and believed he had only mistaken the date at which it was written; that I thought it must have been on the first notice of the event of the election of South Carolina; and that I had taken that occasion to mention to him, that I had intended to have proposed to him one of the great offices, if he had not been elected; but that his election in giving him a higher station had deprived me of his aid in the administration. The letter alluded to was, in fact, mine to him of December the 15th, 1800. I now went on to explain to him verbally, what I meant by saying I had lost him from my list. That in General Washington's time, it had been signified to him that Mr. Adams, the Vice-President, would be glad of a foreign embassy: that General Washington mentioned it to me, expressed his doubts whether Mr. Adams was a fit character for such an office, and his still greater doubts, indeed his conviction, that it would not be justifiable to send away the person who, in case of his death, was provided by the constitution to take his place; that it would moreover appear indecent for him to be disposing of the public trusts, in apparently buying off a competitor for the public favor. I concurred with him in the

opinion, and, if I recollect rightly, Hamilton, Knox, and Randolph were consulted and gave the same opinions. That when Mr. Adams came to the administration, in his first interview with me, he mentioned the necessity of a mission to France, and how desirable it would have been to him if he could have got me to undertake it; but that he conceived it would be wrong in him to send me away, and assigned the same reasons General Washington had done; and therefore, he should appoint Mr. Madison, &c. That I had myself contemplated his (Colonel Burr's) appointment to one of the great offices, in case he was not elected Vice-President; but that as soon as that election was known, I saw it could not be done, for the good reasons which had led General Washington and Mr. Adams to the same conclusion; and therefore, in my first letter to Colonel Burr, after the issue was known, I had mentioned to him that a chasm in my arrangements had been produced by this event. I was thus particular in rectifying the date of this letter, because it gave me an opportunity of explaining the grounds on which it was written, which were, indirectly, an answer to his present hints. He left the matter with me for consideration, and the conversation was turned to indifferent subjects. I should here notice, that Colonel Burr must have thought that I could swallow strong things in my own favor, when he founded his acquiescence in the nomination as Vice-President, to his desire of promoting my honor, the being with me, whose company and conversation had always been fascinating with him, &c. I had never seen Colonel Burr till he came as a member of Senate. His conduct very soon inspired me with distrust. I habitually cautioned Mr. Madison against trusting him too much. I saw afterwards, that under General Washington's and Mr. Adams' administrations, whenever a great military appointment or a diplomatic one was to be made, he came post to Philadelphia to show himself, and in fact that he was always at market, if they had wanted him. He was indeed told by Dayton in 1800, he might be Secretary at War; but this bid was too late. His election as Vice-President was then foreseen. With these impressions of Colonel Burr, there never had been an intimacy between us, and but little association. When I des-

tined him for a high appointment, it was out of respect for the favor he had obtained with the republican party, by his extraordinary exertions and successes in the New York election in 1800.

April the 15th, 1806. About a month ago, Colonel Burr called on me, and entered into a conversation, in which he mentioned, that a little before my coming into office, I had written to him a letter intimating that I had destined him for a high employ, had he not been placed by the people in a different one; that he had signified his willingness to resign as Vice-President, to give aid to the administration in any other place, that he had never asked an office, however; he asked aid of nobody, but could walk on his own legs and take care of himself; that I had always used him with politeness, but nothing more; that he aided in bringing on the present order of things; that he had supported the administration; and that he could do me much harm; he wished, however, to be on different ground; he was now disengaged from all particular business—willing to engage in something—should be in town some days, if I should have anything to propose to him. I observed to him, that I had always been sensible that he possessed talents which might be employed greatly to the advantage of the public, and that as to myself, I had a confidence that if he were employed, he would use his talents for the public good; but that he must be sensible the public had withdrawn their confidence from him, and that in a government like ours it was necessary to embrace in its administration as great a mass of public confidence as possible, by employing those who had a character with the public, of their own, and not merely a secondary one through the executive. He observed, that if we believed a few newspapers, it might be supposed he had lost the public confidence, but that I knew how easy it was to engage newspapers in anything. I observed, that I did not refer to that kind of evidence of his having lost the public confidence, but to the late Presidential election, when, though in possession of the office of Vice-President, there was not a single voice heard for his retaining it. That as to any harm he could do me, I knew no cause why he

should desire it, but, at the same time, I feared no injury which any man could do me; that I never had done a single act, or been concerned in any transaction, which I feared to have fully laid open, or which could do me any hurt, if truly stated; that I had never done a single thing with a view to my personal interest, or that of any friend, or with any other view than that of the greatest public good; that, therefore, no threat or fear on that head would ever be a motive of action with me. He has continued in town to this time; dined with me this day week, and called on me to take leave two or three days ago.

I did not commit these things to writing at the time, but I do it now, because in a suit between him and Cheetham, he has had a deposition of Mr. Bayard taken, which seems to have no relation to the suit, nor to any other object than to calumniate me. Bayard pretends to have addressed to me, during the pending of the Presidential election in February, 1801, through General Samuel Smith, certain conditions on which my election might be obtained, and that General Smith, after conversing with me, gave answers from me. This is absolutely false. No proposition of any kind was ever made to me on that occasion by General Smith, nor any answer authorized by me. And this fact General Smith affirms at this moment.

For some matters connected with this, see my notes of February the 12th and 14th, 1801, made at the moment. But the following transactions took place about the same time, that is to say, while the Presidential election was in suspense in Congress, which, though I did not enter at the time, they made such an impression on my mind, that they are now as fresh, as to their principal circumstances, as if they had happened yesterday. Coming out of the Senate chamber one day, I found Gouverneur Morris on the steps. He stopped me, and began a conversation on the strange and portentous state of things then existing, and went on to observe, that the reasons why the minority of States was so opposed to my being elected, were, that they apprehended that, 1, I would turn all federalists out of office; 2, put down the navy; 3, wipe off the public debt. That I need only to declare, or authorize my friends to declare, that I would

not take these steps, and instantly the event of the election would be fixed. I told him, that I should leave the world to judge of the course I meant to pursue by that which I had pursued hitherto, believing it to be my duty to be passive and silent during the present scene; that I should certainly make no terms; should never go into the office of President by capitulation, nor with my hands tied by any conditions which should hinder me from pursuing the measures which I should deem for the public good. It was understood that Gouverneur Morris had entirely the direction of the vote of Lewis Morris of Vermont, who, by coming over to Matthew Lyon, would have added another vote, and decided the election. About the same time, I called on Mr. Adams. We conversed on the state of things. I observed to him, that a very dangerous experiment was then in contemplation, to defeat the Presidential election by an act of Congress declaring the right of the Senate to name a President of the Senate, to devolve on him the government during any interregnum; that such a measure would probably produce resistance by force, and incalculable consequences, which it would be in his power to prevent by negativing such an act. He seemed to think such an act justifiable, and observed, it was in my power to fix the election by a word in an instant, by declaring I would not turn out the federal officers, nor put down the navy, nor spunge the national debt. Finding his mind made up as to the usurpation of the government by the President of the Senate, I urged it no further, observed the world must judge as to myself of the future by the past, and turned the conversation to something else. About the same time, Dwight Foster of Massachusetts called on me in my room one night, and went into a very long conversation on the state of affairs, the drift of which was to let me understand, that the fears above mentioned were the only obstacle to my election, to all of which I avoided giving any answer the one way or the other. From this moment he became most bitterly and personally opposed to me, and so has ever continued. I do not recollect that I ever had any particular conversation with General Samuel Smith on this subject. Very possibly I had, however, as the general subject and all its

parts were the constant themes of conversation in the private *tête à têtes* with our friends. But certain I am, that neither he nor any other republican ever uttered the most distant hint to me about submitting to any conditions, or giving any assurances to anybody; and still more certainly, was neither he nor any other person ever authorized by me to say what I would or would not do. * * * *

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PART VI.

MISCELLANEOUS PAPERS.

I.

Extract from Diary relative to the invasion of Virginia in 1780, 1781.

Saturday, December the 31st, 1780, eight o'clock, A. M. Received first intelligence that twenty-seven sail were, on the morning of December the 29th, just below Willoughby's Point. Sent off General Nelson, with full powers.

1781. January the 1st. No intelligence.

January the 2d, ten o'clock, A. M. Information from N. Burwell, that their advance was at Warrasqueak Bay. Gave orders for militia, a quarter from some, and half from other counties. Assembly rose.

Wednesday, January the 3d, eight o'clock, P. M. Received a letter from E. Archer, Swan's Point, that at twelve o'clock that day they were at anchor a little below Jamestown. At five o'clock, P. M., of the same day, I had received a letter from R. Andrews for General Nelson, that they were at Jamestown the evening of the 2d.

Thursday, January the 4th, five o'clock, A. M. Mr. Eppes and family, &c., came and informed me from the Speaker, that they had passed Kennon's and Hood's the evening before; the tide having made for them at one o'clock, P. M., of the 3d, and the wind shifted to the east strong. They had not, however,

passed Hood's, but anchored at Kennon's. Called whole militia from adjacent counties. I was then anxious to know whether they would pass Westover, or not, as that would show the side they would land.

Five o'clock, P. M. Learned by Captain De Ponthiere, that at two o'clock, P. M., they were drawn up at Westover. Then ordered arms, and stores, &c., (which till then had been carrying to Westham,) to be thrown across the river at Richmond; and at half-past seven o'clock, P. M., set out to the foundry and Westham, and set Captain Brush, Captain Irish, and Mr. Hylton, to see everything wagoned from the magazine and laboratory to Westham, and there thrown over; to work all night. The enemy encamped at Four-Mile Creek. I went to Tuckahoe and lodged.

January the 5th. Went early over the river with my family; sent them up to Fine Creek; went myself to Westham; gave orders for withdrawing ammunition and arms (which lay exposed on the bank to the effect of artillery from opposite shore), behind a point. Then went to Manchester; had a view of the enemy. My horse sunk under me with fatigue; borrowed one, went to Chetwood's, appointed by Baron Steuben as a rendezvous and head-quarters; but finding him not there, and understanding he would go to Colonel Henry's, I proceeded there for quarters. The enemy arrived in Richmond at one o'clock, P. M. One regiment of infantry and thirty horse proceeded, without stopping, to the foundry; burned that and the magazine and Ballendine's house, and went as far as Westham. They returned that evening to Richmond. Sent me a proposition to compound for property. Refused.

January the 6th. In the morning they burned certain houses and stores, and at twelve o'clock of that day left Richmond, and encamped at Four-Mile Creek. I went to Westham, ordered books and papers particularly from magazine. In the evening I went up to Fine Creek.

January the 7th. I returned to Westham, and then came down to Manchester, where I lodged. The enemy encamped at Westover and Berkley. It had rained excessively the preceding

night, and continued to do so till about noon. Gibson has one thousand; Steuben, eight hundred; Davis, two hundred; Nelson, two hundred and fifty.

January the 8th, at half-past seven o'clock, A. M. I returned to Richmond. The wind gets, about this time, to north-west; a good gale; in the afternoon becomes easterly. The enemy remain in their last encampment. General Nelson at Charles City C. H. Colonel Nicholas with three hundred men at the Forest.

January the 9th, eleven o'clock. The wind is south-east, but almost nothing. The enemy remain in their last encampment, except embarking their horse.

January the 10th, at one o'clock, P. M. They embark infantry, and fall down the river, the wind having shifted a little north of west, and pretty fresh. Baron Steuben gets to Bland's Mills to-night, nine miles short of Hood's.

January the 11th, eight o'clock, A. M. The wind due west, and strong.

Loss sustained by the public.

The papers and books of the Council since the revolution. The papers of the auditors, but not their books. Five brass field-pieces, four pounders, which had been sunk in the river, but were weighed by the enemy. About one hundred and fifty arms in the Capitol loft. About one hundred and fifty in a wagon on the Brook road. About five tons of powder, and some made ammunition at magazine. Some small proportion of the linens, cloths, &c., in the public store. Some quartermasters' stores; the principal articles was one hundred and twenty sides of leather. Some of the tools in the artificers' shops. Foundry, magazine, four artificers' shops, public store, quartermasters' store, one artificers' shop, three wagons.

The legislature was sitting when the entrance of the enemy into James river was made known. They were informed, without reserve, of the measures adopted. Every suggestion from the

members was welcomed and weighed, and their adjournment on the 2d of January furnished the most immediate and confidential means of calling for the militia of their several counties. They accordingly became the bearers of those calls, and they were witnesses themselves, that every preparation was making which the exhausted and harassed state of the country admitted.

They met again at Richmond in May, and adjourned to Charlottesville, where they made a house on the 28th. My office of Governor expired on the 2d of June, being the fifth day of the session; and no successor had been appointed, when an enterprise on the 4th by Tarleton's cavalry drove them thence, and they met again at Staunton on the 7th. Some members attended there who had not been at Richmond at the time of Arnold's enterprise. One of these, George Nicholas, a very honest and able man, then, however, young and ardent, supposing there had been some remissness in the measures of the Executive on that occasion, moved for an inquiry into them, to be made at the succeeding session. The members who had been present and privy to the transactions, courted the inquiry on behalf of the executive. Mr. Nicholas, as a candid and honorable man, sent me, through a friend, a copy of the topics of inquiry he proposed to go into; and I communicated to him, with the same frankness, the justifications I should offer, that he might be prepared to refute them if not founded in fact. The following is a copy of both:—

1*st Objection*.—That General Washington's information was, that an embarcation was taking place, destined for this State.

Answer.—His information was, that it was destined for the Southward, as was *given out* at New York. Had similar informations from General Washington, and Congress, been considered as sufficient ground at all times for calling the militia into the field, there would have been a standing army of militia kept up; because there has never been a time, since the invasion expected in December, 1779, but what we have had those intimations hanging over our heads. The truth is, that General Washington always considered as his duty to convey every rumor of an embarkation; but we (for some time past, at least)

never thought anything but actual invasion should induce us to the expense and harassment of calling the militia into the field; except in the case of December, 1799, when it was thought proper to do this in order to convince the French of our disposition to protect their ships. Inattention to this necessary economy, in the beginning, went far towards that ruin of our finances which followed.

2*d Objection.*—Where were the post-riders, established last summer?

Answer.—They were established at Continental expense, to convey speedy information to Congress of the arrival of the French fleet, then expected here. When that arrived at Rhode Island, these expenses were discontinued. They were again established on the invasion in October, and discontinued when that ceased. And again on the first intimation of the invasion of December. But it will be asked, why were they not established on General Washington's letters? Because those letters were no more than we had received upon many former occasions, and would have led to a perpetual establishment of post-riders.

3*d Objection.*—If a proper number of men had been put into motion on Monday, for the relief of the lower country, and ordered to march to Williamsburg, that they would at least have been in the neighborhood of Richmond on Thursday.

Answer.—The order could not be till Tuesday, because we then received our first certain information. Half the militia of the counties round about Richmond were then ordered out, and the whole of them on the 4th, and ordered not to wait to come in a body, but in detachments as they could assemble. Yet were there not on Friday more than two hundred collected, and they were principally of the town of Richmond.

4*th Objection.*—That we had not the signals.

Answer.—This, though a favorite plan of some gentlemen, and perhaps a practicable one, has hitherto been thought too difficult.

5*th Objection.*—That we had not look-outs.

Answer.—There had been no cause to order look-outs more

than has been ever existing. This is only in fact asking why we do not always keep look-outs.

6th Objection.—That we had not heavy artillery on travelling carriages.

Answer.—The gentlemen who acted as members of the Board of War a twelvemonth can answer this question, by giving the character of the artificers whom, during that time, they could never get to mount the heavy artillery. The same reason prevented their being mounted from May, 1780, to December. We have even been unable to get those heavy cannon moved from Cumberland by the whole energy of government. A like difficulty which occurred in the removal of those at South Quay, in their day, will convince them of the possibility of this.

7th Objection.—That there was not a body of militia thrown into Portsmouth, the great bridge, Suffolk.

Answer.—In the summer of 1780, we asked the favor of General Nelson, to call together the County Lieutenants of the lower counties, and concert the general measures which should be taken for instant opposition, on any invasion, until aid could be ordered by the Executive; and the County Lieutenants were ordered to obey his call; he did so the first moment, to wit, on Saturday, December the 31st, at 8 o'clock A. M., of our receiving information of the appearance of a fleet in the bay. We asked the favor of General Nelson to go down, which he did, with full powers to call together the militia of any counties he thought proper, to call on the keepers of any public arms or stores, and to adopt for the instant such measures as exigencies required, till we could be better informed.

Query.—Why were not General Nelson, and the brave officers with him, particularly mentioned?

Answer.—What should have been said of them? The enemy did not land, nor give them an opportunity of doing what nobody doubts they would have done; that is, something worthy of being minutely recited.

Query.—Why publish Arnold's letter without General Nelson's answer?

Answer.—Ask the printer. He got neither from the Executive.

Objection.—As to the calling out a few militia, and that late.

Answer.—It is denied that they were few or late. Four thousand and seven hundred men (the number required by Baron Steuben) were called out the moment an invasion was known to have taken place, that is on Tuesday, January 2d.

Objection.—The abandonment of York and Portsmouth fortifications.

Answer.—How can they be kept without regulars, on the large scale on which they were formed? Would it be approved of to harass the militia with garrisoning them?

To place me on equal ground for meeting the inquiry, one of the representatives of my county resigned his seat, and I was unanimously elected in his place. Mr. Nicholas, however, before the day, became better satisfied as to what had been done, and did not appear to bring forward the inquiry; and in a publication, several years after, he made honorable acknowledgment of the erroneous views he had entertained on those transactions. I therefore read in my place the inquiries he had proposed to make, and stated the justifications of the Executive. And nearly every member present having been a witness to their truth, and conscious all was done which could have been done, concurred at once in the following resolution:

"The following resolution was *unanimously* agreed to by both houses of the General Assembly of Virginia, December the 19th, 1781.

"*Resolved*, That the sincere thanks of the General Assembly be given to our former Governor, Thomas Jefferson, Esquire, for his impartial, upright, and attentive administration whilst in office. The Assembly wish in the strongest manner to declare the high opinion they entertain of Mr. Jefferson's ability, rectitude, and integrity as Chief Magistrate of this Commonwealth, and mean, by thus publicly avowing their opinion, to obviate and to remove all unmerited censure."

And here it is but proper to notice the parody of these transactions which General Lee has given as their history. He was in a distant State at the time, and seems to have made up a ran-

dom account from the rumors which were afloat where he then was. It is a tissue of errors from beginning to end.

The nonsense which has been uttered on the *coup de main* of Tarleton on Charlottesville is really so ridiculous, that it is almost ridiculous seriously to notice it. I will briefly, however, notice facts and dates. It has been said before, that the legislature was driven from Charlottesville by an incursion of the enemy's cavalry. Since the adjournment from Richmond, their force in this country had been greatly augmented by reinforcements under Lord Cornwallis and General Phillips; and they had advanced up into the country as far as Elk Island, and the Fork of James river. Learning that the legislature was in session at Charlottesville, they detached Colonel Tarleton with his 'egion of horse to surprise them. As he was passing through Louisa on the evening of the 3d of June, he was observed by a Mr. Gouett, who, suspecting the object, set out immediately for Charlottesville, and knowing the byways of the neighborhood, passed the enemy's encampment, rode all night, and before sunrise of the 4th, called at Monticello with notice of what he had seen, and passed on to Charlottesville to notify the members of the legislature. The Speakers of the two houses, and some other members were lodging with us. I ordered a carriage to be ready to carry off my family; we breakfasted at leisure with our guests, and after breakfast they had gone to Charlottesville; when a neighbor rode up full speed to inform me that a troop of horse was then ascending the hill to the house. I instantly sent off my family, and after a short delay for some pressing arrangements, I mounted my horse; and knowing that in the public road I should be liable to fall in with the enemy, I went through the woods, and joined my family at the house of a friend, where we dined. Would it be believed, were it not known, that this flight from a troop of horse, whose whole legion, too, was within supporting distance, has been the subject, with party writers, of volumes of reproach on me, serious or sarcastic? That it has been sung in verse, and said in humble prose, that forgetting the noble example of the hero of La Mancha, and his wind-mills, I declined a combat singly against a

troop, in which victory would have been so glorious? Forgetting, themselves, at the same time, that I was not provided with the enchanted arms of the Knight, nor even with his helmet of Mambrino. These closet heroes, forsooth, would have disdained the shelter of a wood, even singly and unarmed, against a legion of armed enemies.

Here, too, I must note another instance of the want of that correctness in writing history, without which it becomes romance. General Lee says that Tarleton, in another enterprise some time after, penetrated up the south side of James river to New London, in Bedford county. To that neighborhood precisely, where I had a possession, I had carried my family, and was confined there several weeks by the effects of a fall from my horse; and I can assure the readers of General Lee's history, that no enemy ever came within forty miles of New London.

II.

Memorandum relative to invasion of Virginia in 1780, 1781.

Among the manuscripts of Mr. Jefferson, and *in his own hand writing*, is the following paper in relation to the invasion of Virginia in 1780–1781. It is, therefore, inserted here, in connection with the foregoing extract from his diary.

Richmond, 1780. Dec. 31st, at 8 A. M. The Governor received the first intelligence that twenty-seven sail of ships had entered Chesapeake Bay, and were in the morning of the 29th just below Willoughby's point, [the southern cape of James river,] their destination unknown.

1781. January 2, at 10 A. M. Information received that they had entered James river, their advance being at Warrasqueak Bay. Orders were immediately given for calling in the militia, one-fourth from some, and half from other counties. The members of the legislature, which rises this day, are the bearers of the orders to their respective counties. The Governor directs the removal of the records into the country, and the transportation of the military stores from Richmond to Westham, [on the river seven miles above,] there to be carried across the river.

January 3d, 8 P. M. The enemy are said to be a little below Jamestown; convenient for landing, if Williamsburg is their object.

January 4th, at 5 A. M. Information is received that they had passed Kennon's and Hoods the evening before with a strong easterly wind, which determines their object to be either Petersburg or Richmond. The Governor now calls in the whole militia from the adjacent counties.

At 5 P. M. Information that at 2 P. M. they were landed and drawn up at Westover, [on the north side of the river, and twenty-five miles below Richmond,] and consequently Richmond was their destination. Orders are now given to discontinue wagoning the military stores from Richmond to Westham, and to throw them across directly at Richmond.

The Governor having attended to this till an hour and a half in the night, then rode up to the foundry, [one mile below Westham,] ordered Captains Brush and Irish, and Mr. Hylton to continue all night wagoning to Westham the arms and stores still at the foundry, to be thrown across the river at Westham, then proceeded to Westham to urge the pressing the transportation there across the river, and thence went to Tuckahoe [eight miles above, and on the same side of the river] to see after his family, which he had sent that far in the course of the day. He arrived there at 1 o'clock in the night.

Early in the morning he carried his family across the river there, and sending them to Teine creek, [eight miles higher up,] went himself to Breton's on the south side of the river, [opposite to Westham,] finding the arms, &c., in a heap near the shore, and exposed to be destroyed by cannon from the north bank. He had them removed under cover of a point of land near by. He proceeded to Manchester [opposite to Richmond]. The enemy had arrived at Richmond at 1 P. M. Having found that nearly the whole arms had been got there from Richmond, he set out for Chetwood's to meet with Baron Steuben, who had appointed that place as a rendezvous and head-quarters; but not finding him there, and understanding that he would be at Colonel Fleming's, [six miles above Breton's,] he proceeded thither. The

enemy had now a detachment at Westham, and sent a deputation from the city of Richmond to the Governor at Colonel Fleming's to propose terms for ransoming the safety of the city, which terms he rejected. The Governor returned to Breton's, had measures taken more effectually to secure the books and papers there. The enemy having burnt some houses and stores, left Richmond, after twenty-four hours stay there, and encamped at Four-Mile Creek, [eight or ten miles below,] and the Governor went to look to his family at Fine Creek.

He returned to Breton's to see further to the arms there, exposed on the ground to heavy rains which had fallen the night before, and then proceeded to Manchester, and lodged there. The enemy encamped at Westover.

At half-past 7 A. M. he crossed over to Richmond, and resumed his residence there. The enemy are still retained in their encampment at Westover by an easterly wind. Col. John Nicholas has now three hundred militia at the Forest, [six miles off from Westover,] General Nelson two hundred at Charles City Court House, [eight miles below Westover.] Gibson one thousand, and Baron Steuben eight hundred on the south side the river.

January 9th. The enemy are still encamped at Westover.

January 10th. At 1 P. M. they embark; and the wind having shifted a little to the north of the west, and pretty fresh, they fall down the river. Baron Steuben marches for Hood's, where their passage may be checked. He reaches Bland's Mills in the evening, within nine miles of Hood's.

January 11th. At 8 A. M. the wind due west and strong, they may make good their retreat. During this period time and place have been minutely cited, in order that those who think there was any remissness in the movements of the Governor, may lay their finger on the point, and say when and where it was. Hereafter less detail will suffice.

Soon after this General Phillips having joined Arnold with a reinforcement of two thousand men, they advanced again up to Petersburg, and about the last of April to Manchester. The Governor had remained constantly in and about Richmond, exerting all his powers collecting militia, and providing such means

for the defence of the State as its exhausted resources admitted. Never assuming a guard, and with only the river between him and the enemy, his lodgings were frequently within four, five, or six miles of them.

M. de la Fayette, about this time, arrived at Richmond with some Continental troops, with which, and the militia collected, he continued to occupy that place, and the north bank of the river, while Phillips and Arnold held Manchester and the south bank. But Lord Cornwallis, about the middle of May, joining the main southern armies, M. de la Fayette was obliged to retire. The enemy crossed the river, and advanced up into the country about fifty miles, and within thirty miles of Charlottesville, at which place the legislature being to meet in June, the Governor proceeded to his seat at Monticello, two or three miles from it. His office was now near expiring, the country under invasion by a powerful army, no services but military of any avail, unprepared by his line of life and education for the command of armies, he believed it right not to stand in the way of talents better fitted than his own to the circumstances under which the country was placed. He therefore himself proposed to his friends in the legislature that General Nelson, who commanded the militia of the State, should be appointed Governor, as he was sensible that the union of the civil and military power in the same hands at this time, would greatly facilitate military measures. This appointment accordingly took place on the 12th of June, 1781.

This was the state of things when, his office having actually expired, and no successor as yet in place, Colonel Tarleton, with his regiment of horse, was detached by Lord Cornwallis to surprise Mr. Jefferson (whom they thought still in office) and the legislature now sitting in Charlottesville. The Speakers of the two houses, and some other members of the legislature, were lodging with Mr. Jefferson at Monticello. Tarleton, early in the morning, when within ten miles of that place, detached a company of horse to secure him and his guests, and proceeded himself rapidly with his main body to Charlottesville, where he hoped to find the legislature unapprized of his movement. Notice of it, however, had been brought, both to

Monticello and Charlottesville, about sun-rise. The Speakers, with their colleagues, returned to Charlottesville, and with the other members of the legislature, had barely time to get out of his way. Mr. Jefferson sent off his family to secure them from danger, and was himself still at Monticello making arrangements for his own departure, when a Lieutenant Hudson arrived there at half speed, and informed him that the enemy were then ascending the hill of Monticello. He departed immediately, and knowing that he would be pursued if he took the high road, he plunged into the woods of the adjoining mountain, where being at once safe, he proceeded to overtake his family. This is the famous adventure of Carter's mountain, which has been so often resounded through the slanderous chronicles of federalism. But they have taken care never to detail the facts, lest these should show that this favorite charge amounted to nothing more than that he did not remain in his house, and there singly fight a whole troop of horse, or suffer himself to be taken prisoner. Having accompanied his family one day's journey, he returned to Monticello. Tarleton had retired after eighteen hours' stay in Charlottesville. Mr. Jefferson then rejoined his family, and proceeded with them to an estate he had in Bedford, about eighty miles south-west, where, riding on his farm some time after, he was thrown from his horse, and disabled from riding on horseback for a considerable time. But Mr. Turner finds it more convenient to give him this fall in his retreat before Tarleton, which had happened some weeks before, as a proof that he withdrew from a troop of horse with a precipitancy which Don Quixotte would not have practiced.

The facts here stated most particularly, with date of time and place, are taken from the notes made by the writer hereof for his own satisfaction at the time. The others are from memory, but so well recollected that he is satisfied there is no material fact mis-stated. Should any person undertake to contradict any particular on evidence which may at all merit the public respect, the writer will take the trouble (though not at all in the best situation for it) to produce the proof in support of it. He finds,

indeed, that of the persons whom he recollects to have been present on these occasions, few have survived the intermediate lapse of four and twenty years. Yet he trusts that some, as well as himself, are yet among the living; and he is positively certain that no man can falsify any material fact here stated. He well remembers, indeed, that there were then, as there are at all times, some who blamed everything done contrary to their own opinion, although their opinions were formed on a very partial knowledge of facts. The censures which have been heralded by such men as Wm. Turner, are nothing but revivals of these half-informed opinions. Mr. George Nicholas, then a very young man, but always a very honest one, was prompted by these persons to bring specific charges against Mr. Jefferson; the heads of these in writing were communicated through a mutual friend to Mr. Jefferson, who committed to writing also the heads of justification on each of them. I well remember this paper, and believe the original of it still exists; and though framed when every real fact was fresh in the knowledge of every one, this fabricated flight from Richmond was not among the charges stated in this paper, nor any charge against Mr. Jefferson for not fighting singly the troop of horse. Mr. Nicholas candidly relinquished further proceeding. The House of Representatives of Virginia pronounced an honorable sentence of entire approbation of Mr. Jefferson's conduct, and so much the more honorable as themselves had been witness to it. And Mr. George Nicholas took a conspicuous occasion afterwards, of his own free will, and when the matter was entirely at rest, to retract publicly the erroneous opinions he had been led into on that occasion, and to make just reparation by a candid acknowledgment of them.

III.

Instructions to the Ministers Plenipotentiary appointed to negotiate treaties of commerce with the European nations. May 7, 1784.

Whereas, instructions bearing date the 29th day of October, 1783, were sent to the Ministers Plenipotentiary of the United States of America at the Court of Versailles, empowered to negotiate a peace, or to any one or more of them, for concerting drafts or propositions for treaties of amity and commerce with the commercial powers of Europe:

Resolved, That it will be advantageous to these United States to conclude such treaties with Russia, the Court of Vienna, Prussia, Denmark, Saxony, Hamburg, Great Britain, Spain, Portugal, Genoa, Tuscany, Rome, Naples, Venice, Sardinia, and the Ottoman Porte.

Resolved, That in the formation of these treaties the following points be carefully stipulated:

1st. That each party shall have a right to carry their own produce, manufactures, and merchandise, in their own bottoms to the ports of the other, and thence the produce and merchandise of the other, paying, in both cases, such duties only as are paid by the most favored nation, freely, where it is freely granted to such nation, or paying the compensation where such nation does the same.

2. That with the nations holding territorial possessions in America, a direct and similar intercourse be admitted between the United States and such possessions; or if this cannot be obtained, then a direct and similar intercourse between the United States and certain free ports within such possessions; that if this neither can be obtained, permission be stipulated to bring from such possessions, in their own bottoms, the produce and merchandise thereof to their States directly; and for these States to carry in their own bottoms their produce and merchandise to such possessions directly.

3. That these United States be considered in all such treaties,

and in every case arising under them, as one nation, upon the principles of the federal constitution.

4. That it be proposed, though not indispensably required, that if war should hereafter arise between the two contracting parties, the merchants of either country, then residing in the other, shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects, without molestation or hinderance; and all fishermen, all cultivators of the earth, and all artisans or manufacturers, unarmed and inhabiting unfortified towns, villages or places, who labor for the common subsistence and benefit of mankind, and peaceably following their respective employments, shall be allowed to continue the same, and shall not be molested by the armed force of the enemy, in whose power, by the events of war, they may happen to fall; but if anything is necessary to be taken from them, for the use of such armed force, the same shall be paid for at a reasonable price; and all merchants and traders, exchanging the products of different places, and thereby rendering the necessaries, conveniences, and comforts of human life more easy to obtain and more general, shall be allowed to pass free and unmolested; and neither of the contracting powers shall grant or issue any commission to any private armed vessels empowering them to take or destroy such trading ships, or interrupt such commerce.

5. And in case either of the contracting parties shall happen to be engaged in war with any other nation, it be further agreed, in order to prevent all the difficulties and misunderstandings that usually arise respecting the merchandise heretofore called contraband, such as arms, ammunition and military stores of all kinds, that no such articles, carrying by the ships or subjects of one of the parties to the enemies of the other, shall, on any account, be deemed contraband, so as to induce confiscation, and a loss of property to individuals. Nevertheless, it shall be lawful to stop such ships and detain them for such length of time as the captors may think necessary, to prevent the inconvenience or damage that might ensue, from their proceeding on their voyage, paying, however, a reasonable compensation for the loss such

arrest shall occasion to the proprietors; and it shall be further allowed to use in the service of the captors, the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But if the other contracting party will not consent to discontinue the confiscation of contraband goods, then that it be stipulated, that if the master of the vessel stopped, will deliver out the goods charged to be contraband, he shall be admitted to do it, and the vessel shall not in that case be carried into any port; but shall be allowed to proceed on her voyage.

6. That in the same case, when either of the contracting parties shall happen to be engaged in war with any other power, all goods, not contraband, belonging to the subjects of that other power, and shipped in the bottoms of the party hereto, who is not engaged in the war, shall be entirely free. And that to ascertain what shall constitute the blockade of any place or port, it shall be understood to be in such predicament, when the assailing power shall have taken such a station as to expose to imminent danger any ship or ships, that would attempt to sail in or out of the said port; and that no vessel of the party, who is not engaged in the said war, shall be stopped without a material and well-grounded cause; and in such cases justice shall be done, and an indemnification given, without loss of time to the persons aggrieved, and thus stopped without sufficient cause.

7. That no right be stipulated for aliens to hold real property within these States, this being utterly inadmissible by their several laws and policy; but when on the death of any person holding real estate within the territories of one of the contracting parties, such real estate would by their laws descend on a subject or citizen of the other, were he not disqualified by alienage, then he shall be allowed a reasonable time to dispose of the same, and withdraw the proceeds without molestation.

8. That such treaties be made for a term not exceeding ten years from the exchange of ratification.

9. That these instructions be considered as supplementary to those of October 29th, 1783; and not as revoking, except when

they contradict them. That where in treaty with a particular nation they can procure particular advantages, to the specification of which we have been unable to descend, our object in these instructions having been to form outlines only and general principles of treaty with many nations, it is our expectation they will procure them, though not pointed out in these instructions; and where they may be able to form treaties on principles which, in their judgment, will be more beneficial to the United States than those herein directed to be made their basis, they are permitted to adopt such principles. That as to the duration of treaties, though we have proposed to restrain them to the term of ten years, yet they are at liberty to extend the same as far as fifteen years with any nation which may pertinaciously insist thereon. And that it will be agreeable to us to have supplementary treaties with France, the United Netherlands and Sweden, which may bring the treaties we have entered into with them as nearly as may be to the principles of those now directed; but that this be not pressed, if the proposal should be found disagreeable.

Resolved, That treaties of amity, or of amity and commerce, be entered into with Morocco, and the Regencies of Algiers, Tunis and Tripoli, to continue for the same term of ten years, or for a term as much longer as can be procured.

That our Ministers, to be commissioned for treating with foreign nations, make known to the Emperor of Morocco the great satisfaction which Congress feel from the amicable disposition he has shown towards these States, and his readiness to enter into alliance with them. That the occupations of the war, and distance of our situation have prevented our meeting his friendship so early as we wished. But the powers are now delegated to them for entering into treaty with him, in the execution of which they are ready to proceed, and that as to the expenses of his Minister, they do therein what is for the honor and interest of the United States.

Resolved, That a commission be issued to Mr. J. Adams, Mr. B. Franklin, and Mr. T. Jefferson, giving powers to them, or the greater part of them, to make and receive propositions for such

treaties of amity and commerce, and to negotiate and sign the same, transmitting them to Congress for their final ratification; and that such commission be in force for a term not exceeding two years.

IV.

*Report of a conference with the Count de Vergennes on the subject of the Commerce of the United States with France.**

The next levee day at Versailles, I meant to bring again under the view of the Count de Vergennes, the whole subject of our commerce with France; but the number of audiences of ambassadors and other ministers, which take place, of course, before mine, and which seldom, indeed, leave me an opportunity of audience at all, prevented me that day. I was only able to ask the Count de Vergennes, as a particular favor, that he would permit me to wait on him some day that week. He did so, and I went to Versailles the Friday following, (the 9th of December.) M. de Reyneval was with the Count. Our conversation began with the usual topic; that the trade of the United States had not yet learned the way to France, but con-

*TO JOHN JAY.

PARIS, January 2d, 1786.

SIR,—Several conferences and letters having passed between the Count de Vergennes and myself, on the subject of the commerce of this country with the United States, I think them sufficiently interesting to be communicated to Congress. They are stated in the form of a report, and are herein enclosed. The length of this despatch, perhaps, needs apology. Yet I have not been able to abridge it, without omitting circumstances which I thought Congress would rather choose to know. Some of the objects of these conferences present but small hopes for the present, but they seem to admit a possibility of success at some future moment.

* * * * * * * * *

I am Sir, your most obedient and most humble servant.

[The above extract from the report referred to in the preceding letter embraces everything interesting therein, not communicated to the reader in the previous correspondence.]

tinued to centre in England, though no longer obliged by law to go there. I observed, that the real cause of this, was to be found in the difference of the commercial arrangements in the two countries; that merchants would not, and could not trade but where there was to be some gain; that the commerce between two countries could not be kept up, but by an exchange of commodities; that, if an American merchant was forced to carry his produce to London, it could not be expected he would make a voyage from thence to France, with the money, to lay it out here; and, in like manner, that if he could bring his commodities, with advantage, to this country, he would not make another voyage to England, with the money, to lay it out there, but would take in exchange the merchandise of this country. The Count de Vergennes agreed to this, and particularly that where there was no exchange of merchandise, there could be no durable commerce; and that it was natural for merchants to take their returns in the port where they sold their cargo. I desired his permission then, to take a summary view of the productions of the United States, that we might see which of them could be brought here to advantage.

1. Rice. France gets from the Mediterranean a rice not so good indeed, but cheaper than ours. He said that they bought of our rice, but that they got from Egypt also, rice of a very fine quality. I observed that such was the actual state of their commerce, in that article, that they take little from us. 2. Indigo. They make a plenty in their own colonies. He observed that they did, and that they thought it better than ours. 3. Flour, fish, and provisions of all sorts, they produce for themselves. That these articles might, therefore, be considered as not existing, for commerce, between the United States and the kingdom of France.

I proceeded to those capable of becoming objects of exchange between the two nations. 1. Peltry and furs. Our posts being in the hands of the English, we are cut off from that article. I am not sure even, whether we are not obliged to buy of them, for our own use. When these posts are given up, if ever they are, we shall be able to furnish France with skins and furs, to

the amount of two millions of livres, in exchange for her merchandise; but at present, these articles are to be counted as nothing. 2. Potash. An experiment is making whether this can be brought here. We hope it may, but at present it stands for nothing. He observed that it was much wanted in France, and he thought it would succeed. 3. Naval stores. Trials are also making on these, as subjects of commerce with France. They are heavy, and the voyage long. The result, therefore, is doubtful. At present, they are as nothing in our commerce with this country. 4. Whale oil. I told him I had great hopes that the late diminution of duty would enable us to bring this article, with advantage, to France; that a merchant was just arrived (Mr. Barrett) who proposed to settle at L'Orient, for the purpose of selling the cargoes of this article, and choosing the returns. That he had informed me, that in the first year, it would be necessary to take one-third in money, and the remainder only in merchandise; because the fishermen require, indispensably, some money. But he thought that after the first year, the merchandise of the preceding year, would always produce money for the ensuing one, and that the whole amount would continue to be taken annually afterwards, in merchandise. I added, that though the diminution of duty was expressed to be but for one year, yet I hoped they would find their advantage in renewing and continuing it; for that if they intended really to admit it for one year only, the fishermen would not find it worth while to rebuild their vessels, and to prepare themselves for the business. The Count expressed satisfaction on the view of commercial exchange held up by this article. He made no answer as to the continuance of it; and I did not choose to tell him, at that time, that we should claim its continuance under their treaty with the Hanseatic towns, which fixes this duty for them, and our own treaty, which gives us the rights of the most favored nation. 5. Tobacco. I recalled to the memory of the Count de Vergennes, the letter I had written to him on this article; and the object of the present conversation being, how to facilitate the exchange of commerciable articles between the two countries, I pressed that of tobacco, in this point of view; observed that France, at

present, paid us two millions of livres for this article; that for such portions of it as were bought in London, they sent the money directly there, and for what they bought in the United States, the money was still remitted to London, by bills of exchange; whereas, if they would permit our merchants to sell this article freely, they would bring it here, and take the returns on the spot, in merchandise, not money. The Count observed, that my proposition contained what was doubtless useful, but that the King received on this article, at present, a revenue of twenty-eight millions, which was so considerable, as to render them fearful of tampering with it; that the collection of this revenue by way of Farm, was of very ancient date, and that it was always hazardous to alter arrangements of long standing, and of such infinite combinations with the fiscal system. I answered, that the simplicity of the mode of collection proposed for this article, withdrew it from all fear of deranging other parts of their system; that I supposed they would confine the importation to some of their principal ports, probably not more than five or six; that a single collector in each of these, was the only new officer requisite; that he could get rich himself on six livres a hogshead, and would receive the whole revenue, and pay it into the treasury, at short hand. M. de Reyneval entered particularly into this part of the conversation, and explained to the Count, more in detail, the advantages and simplicity of it, and concluded by observing to me, that it sometimes happened that useful propositions, though not practicable at one time, might become so at another. I told him that that consideration had induced me to press the matter when I did, because I had understood the renewal of the Farm was then on the carpet, and that it was the precise moment when I supposed that this portion might be detached from the mass of the Farms. I asked Count de Vergennes whether, if the renewal of the Farm was pressing, this article might not be separated, merely in suspense, till government should have time to satisfy themselves on the expediency of renewing it. He said no promises could be made.

In the course of this conversation, he had mentioned the lib

erty we enjoyed of carrying our fish to the French islands. I repeated to him what I had hinted in my letter, of November the 20th, 1785, that I considered as a prohibition the laying such duties on our fish, and giving such premiums on theirs, as made a difference between their and our fishermen of fifteen livres the quintal, in an article which sold for but fifteen livres. He said it would not have that effect, for two reasons: 1. That their fishermen could not furnish supplies sufficient for their islands, and, of course, the inhabitants must, of necessity, buy our fish. 2. That from the constancy of our fishery, and the short season during which theirs continued, and also from the economy and management of ours, compared with the expense of theirs, we had always been able to sell our fish, in their islands, at twenty-five livres the quintal, while they were obliged to ask thirty-six livres. (I suppose he meant the livre of the French islands.) That thus, the duty and premium had been a necessary operation on their side, to place the sale of their fish on a level with ours, and that without this, theirs could not bear the competition.

I have here brought together the substance of what was said on the preceding subjects, not pretending to give it verbatim, which my memory does not enable me to do. I have, probably, omitted many things which were spoken, but have mentioned nothing which was not. It was interrupted, at times, with collateral matters. One of these was important. The Count de Vergennes complained, and with a good deal of stress, that they did not find a sufficient dependence on arrangements taken with us. This was the third time too, he had done it; first, in a conversation at Fontainebleau, when he first complained to me of the navigation acts of Massachusetts and New Hampshire; secondly, in his letter of October the 30th, 1785, on the same subject; and now, in the present conversation, wherein he added, as another instance, the case of the Chevalier de Mezieres, heir of General Oglethorpe, who, notwithstanding that the 11th article of the treaty provides, that the subjects or citizens of either party shall succeed, *ab intestato*, to the lands of their ancestors, within the dominions of the other, had been informed from Mr. Adams, and by me also, that his right of succession to the Gen-

eral's estate in Georgia was doubtful. He observed too, that the administration of justice with us was tardy, insomuch that their merchants, when they had money due to them within our States, considered it as desperate; and that our commercial regulations, in general, were disgusting to them. These ideas were new, serious and delicate. I decided, therefore, not to enter into them at that moment, and the rather, as we were speaking in French, in which language I did not choose to hazard myself. I withdrew from the objections of the tardiness of justice with us, and the disagreeableness of our commercial regulations, by a general observation, that I was not sensible they were well founded. With respect to the case of the Chevalier de Mezieres, I was obliged to enter into some explanations. They related chiefly to the legal operation of our Declaration of Independence, to the undecided question whether our citizens and British subjects were thereby made aliens to one another, to the general laws as to conveyances of land to aliens, and the doubt whether an act of the Assembly of Georgia might not have been passed, to confiscate General Oglethorpe's property, which would of course prevent its devolution on any heir. Mr. Reyneval observed, that in this case, it became a mere question of fact, whether a confiscation of these lands had taken place before the death of General Oglethorpe, which fact might be easily known by inquiries in Georgia, where the possessions lay. I thought it very material, that the opinion of this court should be set to rights on these points. On my return, therefore, I wrote the following observations on them, which, the next time I went to Versailles, (not having an opportunity of speaking to the Count de Vergennes,) I put into the hands of M. Reyneval, praying him to read them, and to ask the favor of the Count to do the same.

Explanations on some of the subjects of conversation which I had the honor of having with his Excellency, the Count de Vergennes, when I was last at Versailles.

The principal design of that conversation was, to discuss those articles of commerce which the United States could spare, which

are wanted in France, and if received there on a convenient footing, would be exchanged for the productions of France. But in the course of the conversation, some circumstances were incidentally mentioned by the Count de Vergennes, which induced me to suppose he had received impressions, neither favorable to us, nor derived from perfect information.

The case of the Chevalier de Mezieres was supposed to furnish an instance of our disregard to treaties; and the event of that case was inferred from opinions supposed to have been given by Mr. Adams and myself. This is ascribing a weight to our opinions, to which they are not entitled. They will have no influence on the decision of the case. The judges in our courts, would not suffer them to be read. Their guide is the law of the land, of which law its treaties make a part. Indeed, I know not what opinion Mr. Adams may have given on the case. And, if any be imputed to him derogatory of our regard to the treaty with France, I think his opinion has been misunderstood. With respect to myself, the doubts which I expressed to the Chevalier de Mezieres, as to the success of his claims, were not founded on any question whether the treaty between France and the United States would be observed. On the contrary, I venture to pronounce that it will be religiously observed, if his case comes under it. But I doubted whether it would come under the treaty. The case, as I understand it, is this: General Oglethorpe, a British subject, had lands in Georgia. He died since the peace, having devised these lands to his wife. His heirs are the Chevalier de Mezieres, son of his elder sister, and the Marquis de Bellegarde, son of his younger sister. This case gives rise to legal questions, some of which have not yet been decided, either in England or America, the laws of which countries are nearly the same.

1. It is a question under the laws of those countries, whether persons *born before their separation*, and once completely invested, in both, with the character of natural subjects, can ever become aliens in either? There are respectable opinions on both sides. If the negative be right, then General Oglethorpe having never become an alien, and having devised his lands to his wife, who,

on this supposition, also, was not an alien, the devise has transferred the lands to her, and there is nothing left for the treaty to operate on.

2. If the affirmative opinion be right, and the inhabitants of Great Britain and America, *born before the Revolution*, are become aliens to each other, it follows by the laws of both, that the lands which either possessed, within the jurisdiction of the other, became the property of the State in which they are. But a question arises, whether the transfer of the property took place on the Declaration of Independence, or not till an office, or an act of Assembly, had declared the transfer. If the property passed to the State on the Declaration of Independence, then it did not remain in General Oglethorpe, and, of course, at the time of his death, he having nothing, there was nothing to pass to his heirs, and so, nothing for the treaty to operate on.

3. If the property does not pass till declared by an office found by jury, or an act passed by the Assembly, the question then is, whether an office had been found, or an act of Assembly been passed for that purpose, before the peace? If there was, the lands had passed to the State during his life, and nothing being left in him, there is nothing for his heirs to claim under the treaty.

4. If the property had not been transferred to the State before the peace, either by the Declaration of Independence, or an office, or an act of Assembly, then it remained in General Oglethorpe at the epoch of the peace; and it will be insisted, no doubt, that, by the sixth article of the treaty of peace, between the United States and Great Britain, which forbids future confiscations, General Oglethorpe acquired a capacity of holding and of conveying his lands. He has conveyed them to his wife. But she being an alien, it will be decided by the laws of the land, whether she took them for her own use, or for the use of the State. For it is a general principle of our law, that conveyances to aliens pass the lands to the State; and it may be urged, that though, by the treaty of peace, General Oglethorpe could convey, yet that treaty did not mean to give him a greater privilege of conveyance than natives hold, to wit: a privilege of transferring the property to

persons incapable, by law, of taking it. However, this would be a question between the State of Georgia and the widow of General Oglethorpe, in the decision of which the Chevalier de Mezieres is not interested, because, whether she takes the land by the will, for her own use, or for that of the State, it is equally prevented from descending to him: there is neither a conveyance to him, nor a succession *ab intestato* devolving on him, which are the cases provided for by our treaty with France. To sum up the matter in a few words; if the lands had passed to the State before the epoch of peace, the heirs of General Oglethorpe cannot say they have descended on them, and if they remained in the General at that epoch, the treaty saving them to him, he could convey them away from his heirs, and he has conveyed them to his widow, either for her own use, or for that of the State.

Seeing no event in which, according to the facts stated to me, the treaty could be applied to this case, or could give any right whatever, to the heirs of General Oglethorpe, I advised the Chevalier de Mezieres not to urge his pretensions on the footing of right, nor under the treaty, but to petition the Assembly of Georgia for a grant of these lands. If, in the question between the State and the widow of General Oglethorpe, it should be decided that they were the property of the State, I expected from their generosity, and the friendly disposition in America towards the subjects of France, that they would be favorable to the Chevalier de Mezieres. There is nothing in the preceding observations which would not have applied against the heir of General Oglethorpe, had he been a native citizen of Georgia, as it now applies against him, being a subject of France. The treaty has placed the subjects of France on a footing with natives, as to conveyances and descent of property. There was no occasion for the Assemblies to pass laws on this subject; the treaty being a law, as I conceive, superior to those of particular Assemblies, and repealing them, when they stand in the way of its operations.

The supposition that the treaty was disregarded on our part, in the instance of the acts of Assembly of Massachusetts and New

Hampshire, which made a distinction between natives and foreigners, as to the duties to be paid on commerce, was taken notice of in the letter of November the 20th, which I had the honor of addressing to the Count de Vergennes. And while I express my hopes that, on a revision of these subjects, nothing will be found in them derogatory from either the letter or spirit of our treaty, I will add assurances that the United States will not be behind hand in going beyond both, whenever occasions shall offer of manifesting their sincere attachment to this country.

I will pass on to the observation, that our commercial regulations are difficult, and repugnant to the French merchants. To detail these regulations minutely, as they exist in every State, would be beyond my information. A general view of them, however, will suffice, because the States differ little in their several regulations. On the arrival of a ship in America, her cargo must be reported at the proper office. The duties on it are to be paid. These are commonly from two and a half to five per cent. on its value. On many articles, the value of which is tolerably uniform, the precise sum is fixed by law. A tariff of these is presented to the importer, and he can see what he has to pay, as well as the officer. For other articles, the duty is such a per cent. on their value. That value is either shown by the invoice, or by the oath of the importer. This operation being once over, and it is a very short one, the goods are considered as entered, and may then pass through the whole thirteen States without their being ever more subject to a question, unless they be reshipped. Exportation is still more simple; because, as we prohibit the exportation of nothing, and very rarely lay a duty on any article of export, the State is little interested in examining outward-bound vessels. The captain asks a clearance for his own purposes. As to the operations of internal commerce, such as matters of exchange, of buying, selling, bartering, &c., our laws are the same as the English. If they have been altered in any instance, it has been to render them more simple.

Lastly, as to the tardiness of the administration of justice with us, it would be equally tedious and impracticable for me to give a precise account of it in every State. But I think it probable

that it is much on the same footing through all the States, and that an account of it in any one of them may found a general presumption of it in the others. Being best acquainted with its administration in Virginia, I shall confine myself to that. Before the Revolution, a judgment could not be obtained under eight years in the supreme court, where the suit was in the department of the common law, which department embraces about nine-tenths of the subject of legal contestation. In that of the chancery, from twelve to twenty years were requisite. This did not proceed from any vice in the laws, but from the indolence of the judges appointed by the King; and these judges holding their office during his will only, he could have reformed the evil at any time. This reformation was among the first works of the legislature after our independence. A judgment can now be obtained in the supreme court in one year at the common law, and in about three years in the chancery. But more particularly to protect the commerce of France, which, at that moment, was considerable with us, a law was passed, giving all suits wherein a foreigner was a party, a privilege to be tried immediately, on the return of his process, without waiting till those of natives, which stand before them, shall have been decided on. Out of this act, however, the British stand excluded by a subsequent one. This, with its causes, must be explained. The British army, after ravaging the State of Virginia, had sent off a very great number of slaves to New York. By the seventh article of the treaty of peace, they stipulated not to carry away any of these. Notwithstanding this, it was known, when they were evacuating New York, that they were carrying away the slaves. General Washington made an official demand of Sir Guy Carleton, that he should cease to send them away. He answered, that these people had come to them under promise of the King's protection, and that that promise should be fulfilled in preference to the stipulation in the treaty. The State of Virginia, to which nearly the whole of these slaves belonged, passed a law to forbid the recovery of debts due to British subjects. They declared, at the same time, they would repeal the law, if Congress were of opinion they ought to do it. But, desirous that their citizens

should be discharging their debts, they afterwards permitted British creditors to prosecute their suits, and to receive their debts in seven equal and annual payments; relying that the demand for the slaves would be either admitted or denied in time to lay their hands on some of the latter payments for reimbursement. The immensity of this debt was another reason for forbidding such a mass of property to be offered for sale under execution at once, as, from the small quantity of circulating money, it must have sold for little or nothing, whereby the creditor would have failed to receive his money, and the debtor would have lost his whole estate without being discharged of his debt. This is the history of the delay of justice in that country in the case of British creditors. As to all others, its administration is as speedy as justice itself will admit. I presume it is equally so in all the other States, and can add, that it is administered in them all, with a purity and integrity of which few counties afford an example.

I cannot take leave altogether of the subjects of this conversation witout recalling the attention of the Count de Vergennes to what had been its principal drift. This was to endeavor to bring about a direct exchange between France and the United States (without the intervention of a third nation), of those productions with which each could furnish the other. We can furnish to France (because we have heretofore furnished to England), of whale oil and spermaceti, of furs and peltry, of ships and naval stores, and of potash, to the amount of fifteen millions of livres; and the quantities will admit of increase. Of our tobacco, France consumes the value of ten millions more. Twenty-five millions of livres, then, mark the extent of that commerce of exchange, which is, at present, practicable between us. We want, in return, productions and manufactures, not money. If the duties on our produce are light, and the sale free, we shall undoubtedly bring it here, and lay out the proceeds on the spot in the productions and manufactures which we want. The merchants of France will, on their part, become active in the same business. We shall no more think, when we shall have sold our produce here, of making an useless voyage to another

country to lay out the money, than we think at present, when we have sold it elsewhere, of coming here to lay out the money. The conclusion is, that there are commodities which form a basis of exchange to the extent of a million of guineas annually; it is for the wisdom of those in power to contrive that the exchange shall be made.

Having put this paper into the hands of Monsieur Reyneval, we entered into conversation again, on the subject of the Farms, which were now understood to be approaching to a conclusion. He told me, that he was decidedly of opinion, that the interest of the State required the Farm of tobacco to be discontinued, and that he had, accordingly, given every aid to my proposition, which laid within his sphere; that the Count de Vergennes was very clearly of the same opinion, and had supported it strongly with reasons of his own, when he transmitted it to the Comptroller General; but that the Comptroller, in the discussions of this subject which had taken place, besides the objections which the Count de Vergennes had repeated to me, and which are before mentioned, had added, that the contract with the Farmers General was now so far advanced, that the article of tobacco could not be withdrawn from it, without unravelling the whole transaction. Having understood that, in this contract, there was always reserved to the crown a right to discontinue it at any moment, making just reimbursements to the Farmers, I asked M. Reyneval, if the contract should be concluded in its present form, whether it might still be practicable to have it discontinued, as to the article of tobacco, at some future moment. He said it might be possible.

Upon the whole, the true obstacle to this proposition has penetrated, in various ways, through the veil which covers it. The influence of the Farmers General has been heretofore found sufficient to shake a minister in his office. Monsieur de Calonnes' continuance or dismission, has been thought, for some time, to be on a poise. Were he to shift this great weight, therefore, out of his own scale into that of his adversaries, it would decide their preponderance. The joint interests of France and America would be insufficient counterpoise in his favor.

It will be observed that these efforts to improve the commerce of the United States, have been confined to that branch only which respects France itself, and that nothing passed on the subject of our commerce with the West Indies, except an incidental conversation as to our fish. The reason of this, was no want of a due sense of its importance. Of that, I am thoroughly sensible. But efforts in favor of this branch would, at present, be desperate. To nations with which we have not yet treated, and who have possessions in America, we may offer a free vent of their manufactures in the United States, for a full or modified admittance into those possessions. But to France, we are obliged to give that freedom for a different compensation; to wit, for her aid in effecting our independence. It is difficult, therefore, to say what we have now to offer her, for an admission into her West Indies. Doubtless, it has its price. But the question is, what this would be, and whether worth our while to give it. Were we to propose to give to each other's citizens all the rights of natives, they would, of course, count what they should gain by this enlargement of right, and examine whether it would be worth to them as much as their monopoly of their West India commerce. If not, that commercial freedom which we wish to preserve, and which, indeed, is so valuable, leaves us little to offer. An expression in my letter to the Count de Vergennes, of November the 20th, wherein I hinted that both nations might, perhaps, come into the opinion, that the condition of *natives* might be a better ground of intercourse for their citizens, than that of the *most favored* nation, was intended to furnish an opportunity to the minister of parleying on that subject, if he was so disposed, and to myself, of seeing whereabouts they would begin, that I might communicate it to Congress, and leave them to judge of the expediency of pursuing the subject. But no overtures have followed; for I have no right to consider as coming from the minister, certain questions which were, very soon after, proposed to me by an individual. It sufficiently accounts for these questions, that that individual had written a memorial on the subject, for the consideration of the minister, and might wish to know what we would be willing to do. The idea that I should answer such

questions to him, is equally unaccountable, whether we suppose them originating with himself, or coming from the minister. In fact, I must suppose them to be his own; and I transmit them, only that Congress may see what one Frenchman, at least, thinks on the subject. If we can obtain from Great Britain reasonable conditions of commerce, (which, in my idea, must forever include an admission into her islands,) the freest ground between these two nations would seem to be the best. But if we can obtain no equal terms from her, perhaps Congress might think it prudent, as Holland has done, to connect us unequivocally with France. Holland has purchased the protection of France. The price she pays, is *aid in time of war*. It is interesting for us to purchase a free commerce with the French islands. But whether it is best to pay for it, by *aids in war, or by privileges in commerce, or not to purchase it at all*, is the question.

V.

Answers by Mr. Jefferson, to questions addressed to him by Monsieur de Meusnier, author of that part of the Encyclopedie Methodique, entitled Economie politique et diplomatique.

1. What has led Congress to determine, that the concurrence of seven votes is requisite in questions which, by the Confederation, are submitted to the decision of a majority of the United States, in Congress assembled?

The ninth article of Confederation, section six, evidently establishes three orders of questions in Congress. 1. The greater ones, which relate to making peace or war, alliances, coinage, requisitions for money, raising military force, or appointing its commander-in-chief. 2. The lesser ones, which comprehend all other matters submitted by the Confederation to the federal head. 3. The single question of adjourning from day to day. This gradation of questions is distinctly characterized by the article.

In proportion to the magnitude of these questions, a greater concurrence of the voices composing the Union was thought necessary. Three degrees of concurrence, well distinguished by substantial circumstances, offered themselves to notice. 1. A concurrence of a *majority of the people* of the Union. It was thought that this would be insured, by requiring the voices of nine States; because, according to the loose estimates which had been made of the inhabitants, and the proportion of them which were free, it was believed that even the nine smallest would include a majority of the free citizens of the Union. The voices, therefore, of nine States were required in the greater questions. 2. A concurrence of the *majority of the States.* Seven constitute that majority. This number, therefore, was required in the lesser questions. 3. A concurrence of the *majority of Congress,* that is to say, of the States actually present in it. As there is no Congress, when there are not seven States present, this concurrence could never be of less than four States. But these might happen to be the four smallest, which would not include one-ninth part of the free citizens of the Union. This kind of majority, therefore, was entrusted with nothing but the power of adjourning themselves from day to day.

Here then are three kind of majorities. 1. Of the people. 2. Of the States. 3. Of the Congress: each of which is entrusted to a certain length.

Though the paragraph in question be clumsily expressed, yet it strictly announces its own intentions. It defines with precision, the *greater* questions, for which nine votes shall be requisite. In the *lesser* questions, it then requires a *majority of the United States in Congress assembled:* a term which will apply either to the number seven, as being a *majority of the States,* or to the number four as being a *majority of Congress.* Which of the two kinds of majority, was meant? Clearly, that which would leave a still smaller kind, for the decision of the question of adjournment. The contrary construction would be absurd.

This paragraph, therefore, should be understood, as if it had been expressed in the following terms: "The United States, in Congress assembled, shall never engage in war, &c., but with

the consent of nine States: nor determine any other question, but with the consent of a majority of the whole States, except the question of adjournment from day to day, which may be determined by a majority of the States actually present in Congress."

2. How far is it permitted, to bring on the reconsideration of a question which Congress has once determined?

The first Congress which met, being composed mostly of persons who had been members of the legislatures of their respective States, it was natural for them to adopt those rules in their proceedings, to which they had been accustomed in their legislative houses; and the more so, as these happened to be nearly the same, as having been copied from the same original, those of the British parliament. One of those rules of proceeding was, that "a question once determined, cannot be proposed, a second time, in the same session.". Congress, during their first session, in the autumn of 1774, observed this rule strictly. But before their meeting in the spring of the following year, the war had broken out. They found themselves at the head of that war, in an executive as well as legislative capacity. They found that a rule, wise and necessary for a legislative body, did not suit an executive one, which, being governed by events, must change their purposes as those change. Besides, their session was then to become of equal duration with the war; and a rule, which should render their legislation immutable, during all that period, could not be submitted to. They, therefore, renounced it in practice, and have ever since continued to reconsider their questions freely. The only restraint as yet provided against the abuse of this permission to reconsider, is, that when a question has been decided, it cannot be proposed for reconsideration, but by some one who voted in favor of the former decision, and declares that he has since changed his opinion. I do not recollect accurately enough, whether it be necessary that his vote should have decided that of his State, and the vote of his State have decided that of Congress.

Perhaps it might have been better, when they were forming the federal constitution, to have assimilated it, as much as possi-

ble, to the particular constitutions of the States. All of these have distributed the legislative, executive and judiciary powers, into different departments. In the federal constitution, the judiciary powers are separated from the others; but the legislative and executive are both exercised by Congress. A means of amending this defect has been thought of. Congress having a power to establish what committees of their own body they please, and to arrange among them the distribution of their business, they might, on the first day of their annual meeting, appoint an executive committee, consisting of a member from each State, and refer to them all executive business which should occur during their session; confining themselves to what is of a legislative nature, that is to say, to the heads described in the ninth article, as of the competence of nine States only, and to such other questions as should lead to the establishment of general rules. The journal of this committee, of the preceding day, might be read the next morning in Congress, and considered as approved, unless a vote was demanded on a particular article, and that article changed. The sessions of Congress would then be short, and when they separated, the Confederation authorizes the appointment of a committee of the States, which would naturally succeed to the business of the executive committee. The legislative business would be better done, because the attention of the members would not be interrupted by the details of execution; and the executive business would be better done, because, business of this nature is better adapted to small, than great bodies. A monarchical head should confide the execution of its will to departments, consisting, each, of a plurality of hands, who would warp that will, as much as possible, towards wisdom and moderation, the two qualities it generally wants. But, a republican head, founding its decrees, originally, in these two qualities, should commit them to a single hand for execution, giving them, thereby, a promptitude which republican proceedings generally want. Congress could not, indeed, confide their executive business to a smaller number than a committee consisting of a member from each State. This is necessary to insure the confidence of the Union. But it would be gaining a

great deal, to reduce the executive head to thirteen, and to relieve themselves of those details. This, however, has as yet been the subject of private conversations only.

3. A succinct account of paper money in America?

Previous to the Revolution, most of the States were in the habit, whenever they had occasion for more money than could be raised immediately by taxes, to issue paper notes or bills, in the name of the State, wherein they promised to pay to the bearer the sum named in the note or bill. In some of the States no time of payment was fixed, nor tax laid to enable payment. In these, the bills depreciated. But others of the States named in the bill the day when it should be paid, laid taxes to bring in money enough for that purpose, and paid the bills punctually, on or before the day named. In these States, paper money was in as high estimation as gold and silver. On the commencement of the late Revolution, Congress had no money. The external commerce of the States being suppressed, the farmer could not sell his produce, and, of course, could not pay a tax. Congress had no resource then but in paper money. Not being able to lay a tax for its redemption, they could only promise that taxes should be laid for that purpose, so as to redeem the bills by a certain day. They did not foresee the long continuance of the war, the almost total suppression of their exports, and other events, which rendered the performance of their engagement impossible. The paper money continued for a twelvemonth equal to gold and silver. But the quantities which they were obliged to emit for the purpose of the war, exceeded what had been the usual quantity of the circulating medium. It began, therefore, to become cheaper, or, as we expressed it, it depreciated, as gold and silver would have done, had they been thrown into circulation in equal quantities. But not having, like them, an intrinsic value, its depreciation was more rapid and greater than could ever have happened with them. In two years, it had fallen to two dollars of paper money for one of silver; in three years, to four for one; in nine months more, it fell to ten for one; and in the six months following, that is to say, by September, 1779, it had fallen to twenty for one.

Congress, alarmed at the consequences which were to be apprehended, should they lose this resource altogether, thought it necessary to make a vigorous effort to stop its further depreciation. They therefore determined, in the first place, that their emissions should not exceed two hundred millions of dollars, to which term they were then nearly arrived; and though they knew that twenty dollars of what they were then issuing, would buy no more for their army than one silver dollar would buy, yet they thought it would be worth while to submit to the sacrifice of nineteen out of twenty dollars, if they could thereby stop further depreciation. They, therefore, published an address to their constituents, in which they renewed their original declarations, that this paper money should be redeemed at dollar for dollar. They proved the ability of the States to do this, and that their liberty would be cheaply bought at that price. The declaration was ineffectual. No man received the money at a better rate; on the contrary, in six months more, that is, by March, 1780, it had fallen to forty for one. Congress then tried an experiment of a different kind. Considering their former offers to redeem this money at par, as relinquished by the general refusal to take it, but in progressive depreciation, they required the whole to be brought in, declared it should be redeemed at its present value, of forty for one, and that they would give to the holders new bills, reduced in their denomination to the sum of gold or silver, which was actually to be paid for them. This would reduce the nominal sum of the mass in circulation to the present worth of that mass, which was five millions; a sum not too great for the circulation of the States, and which, they therefore hoped, would not depreciate further, as they continued firm in their purpose of emitting no more. This effort was as unavailing as the former. Very little of the money was brought in. It continued to circulate and to depreciate, till the end of 1780, when it had fallen to seventy-five for one, and the money circulated from the French army, being, by that time, sensible in all the States north of the Potomac, the paper ceased its circulation altogether in those States. In Virginia and North Carolina it continued a year longer, within which time it fell to one thousand for one, and

then expired, as it had done in the other States, without a single groan. Not a murmur was heard on this occasion, among the people. On the contrary, universal congratulations took place on their seeing this gigantic mass, whose dissolution had threatened convulsions which should shake their infant confederacy to its centre, quietly interred in its grave. Foreigners, indeed, who do not, like the natives, feel indulgence for its memory, as of a being which has vindicated their liberties, and fallen in the moment of victory, have been loud, and still are loud in their complaints. A few of them have reason; but the most noisy are not the best of them. They are persons who have become bankrupt by unskilful attempts at commerce with America. That they may have some pretext to offer to their creditors, they have bought up great masses of this dead money in America, where it is to be had at five thousand for one, and they show the certificates of their paper possessions, as if they had all died in their hands, and had been the cause of their bankruptcy. Justice will be done to all, by paying to all persons what this money actually cost them, with an interest of six per cent. from the time they received it. If difficulties present themselves in the ascertaining the epoch of the receipt, it has been thought better that the State should lose, by admitting easy proofs, than that individuals, and especially foreigners, should, by being held to such as would be difficult, perhaps impossible.

4. Virginia certainly owed two millions sterling to Great Britain at the conclusion of the war. Some have conjectured the debt as high as three millions. I think that State owed near as much as all the rest put together. This is to be ascribed to peculiarities in the tobacco trade. The advantages made by the British merchants, on the tobaccos consigned to them, were so enormous, that they spared no means of increasing those consignments. A powerful engine for this purpose, was the giving good prices and credit to the planter, till they got him more immersed in debt than he could pay, without selling his lands or slaves. They then reduced the prices given for his tobacco, so that let his shipments be ever so great, and his demand of necessaries ever so economical, they never permitted him to clear off

his debt. These debts had become hereditary from father to son, for many generations, so that the planters were a species of property, annexed to certain mercantile houses in London.

5. The members of Congress are differently paid by different States. Some are on fixed allowances, from four to eight dollars a day. Others have their expenses paid, and a surplus for their time. This surplus is of two, three, or four dollars a day.

6. I do not believe there has ever been a moment, when a single whig, in any one State, would not have shuddered at the very idea of a separation of their State from the confederacy. The tories would, at all times, have been glad to see the confederacy dissolved, even by particles at a time, in hopes of their attaching themselves again to great Britain.

7. The 11th article of Confederation admits Canada to accede to the Confederation at its own will, but adds, "no other colony shall be admitted to the same, unless such admission be agreed to by nine States." When the plan of April, 1784, for establishing new States was on the carpet, the committee who framed the report of that plan, had inserted this clause, "provided nine States agree to such admission, according to the reservation of the 11th of the articles of Confederation." It was objected, 1. That the words of the confederation, "no other colony," could refer only to the residuary possessions of Great Britain, as the two Floridas, Nova Scotia, &c., not being already parts of the Union; that the law for "admitting" a new member into the Union, could not be applied to a territory which was already in the Union, as making part of a State which was a member of it. 2. That it would be improper to allow "nine" States to receive a new member, because the same reasons which rendered that number proper now, would render a greater one proper, when the number composing the Union should be increased. They therefore struck out this paragraph and inserted a proviso, that "the consent of so many States, in Congress, shall be first obtained, as may, at the time, be competent;" thus leaving the question, whether the 11th article applies to the admission of new States, to be decided when that admission shall be asked. See the Journal of Congress of April 20, 1784. An-

other doubt was started in this debate, viz.: whether the agreement of the nine States, required by the Confederation, was to be made by their legislatures, or by their delegates in Congress? The expression adopted, viz.: "so many States, in Congress, is first obtained," show what was their sense of this matter. If it be agreed that the 11th article of the Confederation is not to be applied to the admission of these new States, then it is contended that their admission comes within the 13th article, which forbids "any alteration, unless agreed to in a Congress of the United States, and afterwards confirmed by the legislatures of every State." The independence of the new States of Kentucky and Franklin, will soon bring on the ultimate decision of all these questions.

8. Particular instances whereby the General Assembly of Virginia have shown that they considered the ordinance called their constitution, as every other ordinance, or act of the legislature, subject to be altered by the legislature for the time being.

1. The convention which formed that constitution, declared themselves to be the House of Delegates, during the term for which they were originally elected, and in the autumn of the year met the Senate, elected under the new constitution, and did legislative business with them. At this time, there were malefactors in the public jail, and there was as yet no court established for their trial. They passed a law, appointing certain members by name, who were then members of the Executive Council, to be a court for the trial of these malefactors, though the constitution had said, in express words, that no person should exercise the powers of more than one of the three departments, legislative, executive and judiciary at the same time. This proves that the very men who had made that constitution understood that it would be alterable by the General Assembly. This court was only for that occasion. When the next General Assembly met, after the election of the ensuing year, there was a new set of malefactors in the jail, and no court to try them. This Assembly passed a similar law to the former, appointing certain members of the Executive Council to be an occasional court for this particular case. Not having the journals of Assembly by

me, I am unable to say whether this measure was repealed afterwards. However, they are instances of *executive* and *judiciary* powers exercised by the same persons, under the authority of a law, made in contradiction to the constitution.

2. There was a process depending in the ordinary courts of justice, between two individuals of the names of Robinson and Fauntleroy, who were relations, of different descriptions, to one Robinson, a British subject, lately dead. Each party claimed a right to inherit the lands of the decedent according to the laws. Their right should by the constitution have been decided by the judiciary courts; and it was actually depending before them. One of the parties petitioned the Assembly (I think it was in the year 1782), who passed a law deciding the right in his favor. In the following year, a Frenchman, master of a vessel, entered into port without complying with the laws established in such cases, whereby he incurred the forfeitures of the law to any person who would sue for them. An individual instituted a legal process to recover these forfeitures according to the law of the land. The Frenchman petitioned the Assembly, who passed a law deciding the question of forfeiture in his favor. These acts are occasional repeals of that part of the constitution which forbids the same persons to exercise *legislative* and *judiciary* powers at the same time.

The Assembly is in the habitual exercise, during their sessions, of directing the Executive what to do. There are few pages of their journals which do not show proofs of this, and consequently instances of the *legislative* and *executive* powers exercised by the same persons at the same time. These things prove that it has been the uninterrupted opinion of every Assembly, from that which passed the ordinance called the constitution down to the present day, that their acts may control that ordinance, and, of course, that the State of Virginia has no fixed constitution at all.

[The succeeding observations were made by Mr. Jefferson on an article entitled "Etats Unis," prepared for the Encyclopedie Methodique, and submitted to him before its publication.]

Page 8. The malefactors sent to America were not sufficient in number to merit enumeration, as one class out of three which peopled America. It was at a late period of their history that this practice began. I have no book by me which enables me to point out the date of its commencement. But I do not think the whole number sent would amount to two thousand, and being principally men, eaten up with disease, they married seldom and propagated little. I do not suppose that themselves and their descendants are at present four thousand, which is little more than one thousandth part of the whole inhabitants.

Indented servants formed a considerable supply. These were poor Europeans, who went to America to settle themselves. If they could pay their passage, it was well. If not, they must find means of paying it. They were at liberty, therefore, to make an agreement with any person they chose, to serve him such a length of time as they agreed on, upon condition that he would repay to the master of the vessel the expenses of their passage. If, being foreigners, unable to speak the language, they did not know how to make a bargain for themselves, the captain of the vessel contracted for them with such persons as he could. This contract was by deed indented, which occasioned them to be called indented servants. Sometimes they were called redemptioners, because by their agreement with the master of the vessel, they could *redeem* themselves from his power by paying their passage, which they frequently effected by hiring themselves on their arrival, as is before mentioned. In some States I know that these people had a right of marrying themselves without their master's leave, and I did suppose they had that right everywhere. I did not know that in any of the States they demanded so much as a week for every day's absence without leave. I suspect this must have been at a very early period, while the governments were in the hands of the first emigrants, who, being mostly laborers, were narrow-minded and severe. I know that

in Virginia the laws allowed their servitude to be protracted only two days for every one they were absent without leave. So mild was this kind of servitude, that it was very frequent for foreigners, who carried to America money enough not only to pay their passage, but to buy themselves a farm, to indent themselves to a master for three years for a certain sum of money, with a view to learn the husbandry of the country. I will here make a general observation. So desirous are the poor of Europe to get to America, where they may better their condition, that being unable to pay their passage, they will agree to serve two or three years on their arrival here, rather than not go. During the time of that service, they are better fed, better clothed, and have lighter labor, than while in Europe. Continuing to work for hire a few years longer, they buy a farm, marry, and enjoy all the sweets of a domestic society of their own. The American governments are censured for permitting this species of servitude, which lays the foundation of the happiness of these people. But what should these governments do? Pay the passage of all those who choose to go into their country? They are not able; nor were they able, do they think the purchase worth the price? Should they exclude these people from their shores? Those who know their situations in Europe and America, would not say that this is the alternative which humanity dictates. It is said that these people are deceived by those who carry them over. But this is done in Europe. How can the American governments prevent it? Should they punish the deceiver? It seems more incumbent on the European government, where the act is done, and where a public injury is sustained from it. However, it is only in Europe that this deception is heard of. The individuals are generally satisfied in America with their adventure, and very few of them wish not to have made it. I must add that the Congress have nothing to do with this matter. It belongs to the legislatures of the several States.

Page 26. "Une puissance, en effet," &c. The account of the settlement of the colonies, which precedes this paragraph, shows that that settlement was not made by public authority, or at the public expense of England; but by the exertions, and at

the expense of individuals. Hence it happened, that their constitutions were not formed systematically, but according to the circumstances which happened to exist in each. Hence, too, the principles of the political connection between the old and new countries, were never settled. That it would have been advantageous to have settled them, is certain; and, particularly, to have provided a body which should decide, in the last resort, all cases wherein both parties were interested. But it is not certain that that right would have been given, or ought to have been given to the Parliament; much less, that it resulted to the Parliament, without having been given to it expressly. Why was it necessary that there should have been a body to decide in the last resort? Because, it would have been for the good of both parties. But this reason shows it ought not to have been the Parliament, since that would have exercised it for the good of one party only.

Page 105. As to the change of the 8th article of Confederation, for quoting requisitions of money on the States.

By a report of the Secretary of Congress, dated January the 4th, 1786, eight States had then acceded to the proposition; to wit, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina.

Congress, on the 18th of April, 1783, recommended to the States to invest them with a power, for twenty-five years, to levy an impost of five per cent. on all articles imported from abroad. New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, and South Carolina, had complied with this, before the 4th of January, 1786. Maryland had passed an act for the same purpose; but, by a mistake in referring to the date of the recommendation of Congress, the act failed of its effect. This was therefore to be rectified. Since the 4th of January, the public papers tell us that Rhode Island has complied fully with this recommendation. It remains still for New York and Georgia to do it. The exportations of America, which are tolerably well known, are the best measure for estimating the importations. These are probably worth about twenty millions of dollars, annually. Of course,

this impost will pay the interest of a debt to that amount. If confined to the foreign debt, it will pay the whole interest of that, and sink half a million of the capital, annually. The expenses of collecting this impost, will probably be six per cent on its amount, this being the usual expense of collection in the United States. This will be sixty thousand dollars.

On the 30th of April, 1784, Congress recommended to the States, to invest them with a power, for fifteen years, to exclude from their ports the vessels of all nations, not having a treaty of commerce with them; and to pass, as to all nations, an act on the principles of the British navigation act. Not that they were disposed to carry these powers into execution, with such as would meet them in fair and equal arrangements of commerce; but that they might be able to do it against those who should not. On the 4th of January, 1786, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Maryland, Virginia, and North Carolina, had done it. It remained for New Jersey, Delaware, South Carolina, and Georgia, to do the same.

In the meantime, the general idea has advanced before the demands of Congress, and several States have passed acts, for vesting Congress with the whole regulation of their commerce, reserving the revenue arising from these regulations, to the disposal of the State in which it is levied. The States which, according to the public papers, have passed such acts, are New Hampshire, Massachusetts, Rhode Island, New Jersey, Delaware, and Virginia; but the Assembly of Virginia, apprehensive that this disjointed method of proceeding may fail in its effect, or be much retarded, passed a resolution on the 21st of January, 1786, appointing commissioners to meet others from the other States, whom they invite into the same measure, to digest the form of an act, for investing Congress with such powers over their commerce, as shall be thought expedient, which act is to be reported to their several Assemblies, for their adoption. This was the state of the several propositions relative to the impost, and regulation of commerce, at the date of our latest advices from America.

Page 125. The General Assembly of Virginia, at their session in 1785, passed an act, declaring that the district, called Kentucky, shall be a separate and independent State, on these conditions. 1. That the people of that district shall consent to it. 2. That Congress shall consent to it, and shall receive them into the federal Union. 3. That they shall take on themselves a proportionable part of the public debt of Virginia. 4. That they shall confirm all titles to lands within their district, made by the State of Virginia, before their separation.

Page 139. It was in 1783, and not in 1781, that Congress quitted Philadelphia.

Page 140. "Le Congres qui se trouvoit à la portée des rebelles fut effrayé." I was not present on this occasion, but I have had relations of the transaction from several who were. The conduct of Congress was marked with indignation and firmness. They received no propositions from the mutineers. They came to the resolutions, which may be seen in the journals of June the 21st, 1783, then adjourned regularly, and went through the body of the mutineers to their respective lodgings. The measures taken by Dickinson, the President of Pennsylvania, for punishing this insult, not being satisfactory to Congress, they assembled, nine days after, at Princeton, in Jersey. The people of Pennsylvania sent petitions declaring their indignation at what had passed, their devotion to the federal head, and their dispositions to protect it, and praying them to return; the legislature, as soon as assembled, did the same thing; the Executive, whose irresolution had been so exceptionable, made apologies. But Congress were now removed; and, to the opinion that this example was proper, other causes were now added, sufficient to *prevent* their return to Philadelphia.

Page 155. l. 2. Omit "La detta actuelle," &c.

And also, "Les details," &c., &c., to the end of the paragraph, "celles des Etats Unis;" page 156. The reason is, that these passages seem to suppose, that the several sums emitted by Congress, at different times, amounting nominally to two hundred millions of dollars, had been actually worth that at the time of emission, and, of course, that the soldiers and others had receiv-

ed that sum from Congress. But nothing is further from the truth. The soldier, victualler, or other persons who received forty dollars for a service, at the close of the year 1779, received, in fact, no more than he who received one dollar for the same service, in the year 1775, or 1776; because, in those years, the paper money was at par with silver; whereas, by the close of 1779, forty paper dollars were worth but one of silver, and would buy no more of the necessaries of life. To know what the monies emitted by Congress were worth to the people, at the time they received them, we will state the date and amount of every several emission, the depreciation of paper money at the time, and the real worth of the emission in silver or gold.

Emission.	Sum Emitted.	Depreciation.	Worth of the sum emitted, in silver dollars.
1775. June 23	2,000,000	....	2,000,000
" November 29	3,000,000	....	3,000,000
1776. Feb. 17	4,000,000	....	4,000,000
" August 13	5,000,000	....	5,000,000
1777. May 20	5,000,000	2⅔	1,877,273
" August 15	1,000,000	3	333 333⅓
" Nov. 7	1,000,000	4	250,000
" Dec. 3	1,000,000	4	250,000
1778. January 8	1,000,000	4	250,000
" January 22	2,000,000	4	500,000
" February 16	2,000,000	5	400,000
" March 5	2,000,000	5	400,000
" April 4	1,000,000	6	166,666⅔
" April 11	5,000,000	6	833,333⅓
" April 18	500,000	6	83,333⅓
" May 22	5,000,000	5	1,000,000
" June 20	5,000,000	4	1,250,000
" July 30	5,000,000	4½	1,111,111
" September 5	5,000,000	5	1,000,000
" September 26	10,000,100	5	2,000,020
" November 4	10,000,100	6	1,666,683⅓
" December 14	10,000,100	6	1,666,683⅓
1779. January 14	*24,447,620	8	3,055,952½
" February 3	5,000,160	10	500,016
" February 12	5,000,160	10	500,016
" April 2	5,000,160	17	294,127
" May 5	10,000,100	24	416,670⅝
" June 4	10,000,100	20	500,005
" July 17	15,000,280	20	750,014
" September 17	15,000,360	24	625,010½
" October 14	5,000,180	30	166,672¼
" November 17	10,050,540	38½	261,053
" November 29	10,000,140	38½	259,743
	200,000,000		36,367,719⅝

Thus, it appears, that the two hundred millions of dollars, emitted by Congress, were worth, to those who received them,

* The sum actually voted was 50,000,400, but part of it was for exchange of old bills, without saying how much. It is presumed that these exchanges absorbed $25,552,780, because the remainder, 24,447,620, with all the other emissions preceding Sept. 2, 1779, will amount to 159,948,880, the sum which Congress declared to be then in circulation.

but about thirty-six millions of silver dollars. If we estimate at the same value, the like sum of two hundred millions, supposed to have been emitted by the States, and reckon the Federal debt, foreign and domestic, at about forty-three millions, and the State debts, at about twenty-five millions, it will form an amount of one hundred and forty millions of dollars, or seven hundred and thirty-five millions of livres, Tournois, the total sum which the war has cost the inhabitants of the United States. It continued eight years, from the battle of Lexington to the cessation of hostilities in America. The annual expense, then, was about seventeen millions and five hundred thousand dollars, while that of our enemies was a greater number of guineas.

It will be asked, how will the two masses of Continental and of State money have cost the people of the United States seventy-two millions of dollars, when they are to be redeemed, now, with about six millions? I answer, that the difference, being sixty-six millions, has been lost on the paper bills, separately, by the successive holders of them. Every one, through whose hands a bill passed, lost on that bill what it lost in value, during the time it was in his hands. This was a real tax on him; and, in this way, the people of the United States actually contributed those sixty-six millions of dollars, during the war, and by a mode of taxation the most oppressive of all, because the most unequal of all.

Page 166; bottom line. Leave out "Et c'est une autre economie," &c. The reason of this, is, that in 1784, purchases of lands were to be made of the Indians, which were accordingly made. But in 1785, they did not propose to make any purchase. The money desired in 1785, five thousand dollars, was probably to pay agents residing among the Indians, or balances of the purchases of 1784. These purchases will not be made every year; but only at distant intervals, as our settlements are extended; and it may be regarded as certain, that not a foot of land will ever be taken from the Indians, without their own consent. The sacredness of their rights, is felt by all thinking persons in America, as much as in Europe.

Page 170. Virginia was quotaed the highest of any State in the Union. But during the war, several States appear to have paid more, because they were free from the enemy, whilst Virginia was cruelly ravaged. The requisition of 1784, was so quotaed on the several States, as to bring up their arrearages; so that when they should have paid the sums then demanded, all would be on an equal footing. It is necessary to give a further explanation of this requisition. The requisitions of one million and two hundred thousand dollars, of eight millions, and two millions, had been made during the war, as an experiment, to see whether, in that situation, the States could furnish the necessary supplies. It was found they could not. The money was thereupon obtained by loans in Europe; and Congress meant, by their requisition of 1784, to abandon the requisitions of one million and two hundred thousand dollars, and of two millions, and also one-half of the eight millions. But as all the States, almost, had made some payments in part of that requisition, they were obliged to retain such a proportion of it, as would enable them to call for equal contributions from all the others.

Page 170. I cannot say how it has happened, that the debt of Connecticut is greater than that of Virginia. The latter is the richest in productions, and, perhaps, made greater exertions to pay for her supplies in the course of the war.

Page 172. "Les Americains sevant aprés une banqueroute," &c. The objections made to the United States, being here condensed together in a short compass, perhaps, it would not be improper to condense the answers in as small a compass, in some such form as follows. That is, after the words "aucun espoir," add, "But to these charges it may be justly answered, that those are no bankrupts who acknowledge the sacredness of their debts, in their just and real amount, who are able, within a reasonable time, to pay them, and who are actually proceeding in that payment; that they furnish, in fact, the supplies necessary for the support of their government; that their officers and soldiers are satisfied, as the interest of their debt is paid regularly, and the principal is in a course of payment; that the question, whether they fought ill, should be asked of those who met

them at Bunker's hill, Bennington, Stillwater, King's mountain, the Cowpens, Guilford, and the Eutaw. And that the charges of ingratitude, madness, infidelity and corruption, are easily made by those to whom falsehoods cost nothing; but that no instances, in support of them, have been produced, or can be produced."

Page 187. "Les officiérs et les soldats ont eté payés," &c. The balances due to the officers and soldiers have been ascertained, and a certificate of the sum given to each; on these, the interest is regularly paid; and every occasion is seized of paying the principal, by receiving these certificates as money, whenever public property is sold, till a more regular and effectual method can be taken, for paying the whole.

Page 191. "Quoique la loi dont nous parlons, ne s'observe plus en Angleterre." "An alien born may purchase lands or other estates, but not for his own use; for the King is thereupon entitled to them." "Yet an alien may acquire a property in goods, money and other personal estate, or may hire a house for his habitation. For this is necessary for the advancement of trade." "Also, an alien may bring an action concerning personal property, and may make a will, and dispose of his personal estate." "When I mention these rights of an alien, I must be understood of alien *friends* only, or such whose countries are in peace with ours; for alien *enemies* have no rights, no privileges, unless by the King's special favor, during the time of war." Blackstone, B. 1. c. 10, page 372. "An alien *friend* may have personal actions, but not real; an alien *enemy* shall have neither real, personal, or mixed actions. The reason why an alien *friend* is allowed to maintain a personal action, is, because he would otherwise be incapacitated to merchandise, which may be as much to our prejudice as his." Cunningham's law dict. title, Aliens. The above is the clear law of England, practiced from the earliest ages to this day, and never denied. The passage quoted by M. de Meuisnier from 2 Blackstone, c. 26, is from his chapter, "Of title to things *personal by occupancy*." The word "personal," shows, that nothing in this chapter relates to lands, which are *real* estate; and, therefore, this passage

does not contract the one before quoted from the same author, (1 Bl. c. 10.) which says, that the lands of an alien belong to the King. The words, "of title by *occupancy*," show, that it does not relate to *debts*, which, being a moral existence only, cannot be the subject of *occupancy*. Blackstone, in this passage, (B. 2. c. 26.) speaks only of personal goods of an alien, which another may find, and seize as prime occupant.

Page 193. "Le remboursement presentera des difficultés des sommes considerables," &c. There is no difficulty nor doubt on this subject. Every one is sensible how this is to be ultimately settled. Neither the British creditor, nor the State, will be permitted to lose by these payments. The debtor will be credited for what he paid, according to what it was really worth at the time he paid it, and he must pay the balance. Nor does he lose by this; for if a man who owed one thousand dollars to a British merchant, paid eight hundred paper dollars into the treasury, when the depreciation was at eight for one, it is clear he paid but one hundred real dollars, and must now pay nine hundred. It is probable, he received those eight hundred dollars for one hundred bushels of wheat, which were never worth more than one hundred silver dollars. He is credited, therefore, the full worth of his wheat. The equivoque is in the use of the word "dollar."

Page 226. "Qu' on abolisse les privileges du clergé." This privilege, originally allowed to the clergy, is now extended to every man, and even to women. It is a right of exemption from capital punishment, for the first offence, in most cases. It is, then, a pardon by the law. In other cases, the Executive gives the pardon. But when laws are made as mild as they should be, both those pardons are absurd. The principle of Beccaria is sound. Let the legislators be merciful, but the executors of the law inexorable. As the term "privileges du clergé" may be understood by foreigners, perhaps, it will be better to strike it out here, and substitute the word "pardon."

Page 239. "Les commissaries veulent," &c. Manslaughter is the killing a man with design, but in a sudden gust of passion, and where the killer has not had time to cool. The first offence

is not punished capitally, but the second is. This is the law of England and of all the American States; and is not now a new proposition. Those laws have supposed that a man, whose passions have so much dominion over him, as to lead him to repeated acts of murder, is unsafe to society: that it is better he should be put to death by the law, than others, more innocent than himself, on the movements of his impetuous passions.

Ibid. "Mal-aisé d' indiquer la nuance precise," &c. In forming a scale of crimes and punishments, two considerations have principal weight. 1. The atrocity of the crime. 2. The peculiar circumstances of a country, which furnish greater temptations to commit it, or greater facilities for escaping detection. The punishment must be heavier to counterbalance this. Were the first the only consideration, all nations would form the same scale. But, as the circumstances of a country have influence on the punishment, and no two countries exist precisely under the same circumstances, no two countries will form the same scale of crimes and punishments. For example; in America, the inhabitants let their horses go at large, in the unenclosed lands, which are so extensive, as to maintain them altogether. It is easy, therefore, to steal them, and easy to escape. Therefore, the laws are obliged to oppose these temptations with a heavier degree of punishment. For this reason, the stealing of a horse in America, is punished more severely, than stealing the same value in any other form. In Europe, where horses are confined so securely, that it is impossible to steal them, that species of theft need not be punished more severely than any other. In some countries of Europe, stealing fruit from trees is punished capitally. The reason is, that it being impossible to lock fruit trees up in coffers, as we do our money, it is impossible to oppose physical bars to this species of theft. Moral ones are, therefore, opposed by the laws. This, to an unreflecting American, appears the most enormous of all the abuses of power; because, he has been used to see fruits hanging in such quantities, that, if not taken by men, they would rot: he has been used to consider them, therefore, as of no value, and as not furnishing materials for the commission of a crime. This must serve as an

apology for the arrangements of crimes and punishments, in the scale under our consideration. A different one would be formed here ; and still different ones in Italy, Turkey, China, &c.

Page 240. "Les officiers Americains," &c., to page 264, "qui le meritoient." I would propose to new model this section, in the following manner. 1. Give a succinct history of the origin and establishment of the Cincinnati. 2. Examine whether, in its present form, it threatens any dangers to the State. 3. Propose the most practicable method of preventing them.

Having been in America, during the period in which this institution was formed, and being then in a situation which gave me opportunities of seeing it, in all its stages, I may venture to give M. de Meusnier materials for the first branch of the preceding distribution of the subject. The second and third, he will best execute himself. I should write its history in the following form:

When, on the close of that war, which established the independence of America, its army was about to be disbanded, the officers, who, during the course of it, had gone through the most trying scenes together, who, by mutual aids and good offices, had become dear to one another, felt with great oppression of mind, the approach of that moment which was to separate them, never, perhaps, to meet again. They were from different States, and from distant parts of the same State. Hazard alone could, therefore, give them but rare and partial occasions of seeing each other. They were, of course, to abandon altogether the hope of ever meeting again, or to devise some occasion which might bring them together. And why not come together on purpose, at stated times? Would not the trouble of such a journey be greatly overpaid, by the pleasure of seeing each other again, by the sweetest of all consolations, the talking over the scenes of difficulty and of endearment they had gone through? This, too, would enable them to know who of them should succeed in the world, who should be unsuccessful, and to open the purses of all to every laboring brother. This idea was too soothing, not to be cherished in conversation. It was improved into that of a regular association, with an organized administration, with

periodical meetings, general and particular, fixed contributions for those who should be in distress, and a badge, by which, not only those who had not had occasion to become personally known, should be able to recognize one another, but which should be worn by their descendants, to perpetuate among them the friendships which had bound their ancestors together.

General Washington was, at that moment, oppressed with the operation of disbanding an army which was not paid, and the difficulty of this operation was increased, by some two or three States' having expressed sentiments, which did not indicate a sufficient attention to their payment. He was sometimes present, when his officers were fashioning in their conversations, their newly proposed society. He saw, the innocence of its origin, and foresaw no effects less innocent. He was, at that time, writing his valedictory letter to the States, which has been so deservedly applauded by the world. Far from thinking it a moment to multiply the causes of irritation, by thwarting a proposition which had absolutely no other basis but that of benevolence and friendship, he was rather satisfied to find himself aided in his difficulties by this new incident, which occupied, and, at the same time, soothed the minds of the officers. He thought, too, that this institution would be one instrument the more for strengthening the federal bond, and for promoting federal ideas. The institution was formed. They incorporated into it the officers of the French army and navy, by whose sides they had fought, and with whose aid they had finally prevailed, extending it to such grades as they were told might be permitted to enter into it. They sent an officer to France, to make the proposition to them, and to procure the badges which they had devised for their order. The moment of disbanding the army having come, before they could have a full meeting to appoint their President, the General was prayed to act in that office till their first general meeting, which was to be held at Philadelphia, in the month of May following.

The laws of the society were published. Men who read them in their closets, unwarmed by those sentiments of friendship which had produced them, inattentive to those pains which an approach-

ing separation had excited in the minds of the institutors, politicians, who see in everything only the dangers with which it threatens civil society, in fine, the laboring people, who, shielded by equal laws, had never seen any difference between man and man, but had read of terrible oppressions, which people of their description experience in other countries, from those who are distinguished by titles and badges, began to be alarmed at this new institution. A remarkable silence, however, was observed. Their solicitudes were long confined within the circles of private conversation. At length, however, a Mr. Burke, Chief Justice of South Carolina, broke that silence. He wrote against the new institution, foreboding its dangers, very imperfectly indeed, because he had nothing but his imagination to aid him. An American could do no more; for to detail the real evils of aristocracy, they must be seen in Europe. Burke's fears were thought exaggerations in America; while in Europe, it is known that even Mirabeau has but faintly sketched the curses of hereditary aristocracy as they are experienced here, and as they would have followed in America, had this institution remained. The epigraph of Burke's pamphlet, was, "Blow ye the trumpet in Zion." Its effect corresponded with its epigraph. This institution became, first, the subject of general conversation. Next, it was made the subject of deliberation in the legislative Assemblies of some of the States. The Governor of South Carolina censured it, in an address to the Assembly of that State. The Assemblies of Massachusetts, Rhode Island, and Pennsylvania, condemned its principles. No circumstance, indeed, brought the consideration of it expressly before Congress; yet it had sunk deep into their minds. An offer having been made to them, on the part of the Polish order of Divine Providence, to receive some of their distinguished citizens into that order, they made that an occasion to declare, that these distinctions were contrary to the principles of their Confederation.

The uneasiness excited by this institution, had very early caught the notice of General Washington. Still recollecting all the purity of the motives which gave it birth, he became sensible that it might produce political evils, which the warmth of

those motives had masked. Add to this, that it was disapproved by the mass of citizens of the Union. This, alone, was reason strong enough, in a country where the will of the majority is the law, and ought to be the law. He saw that the objects of the institution were too light, to be opposed to considerations as serious as these; and that it was become necessary to annihilate it absolutely. On this, therefore, he was decided. The first annual meeting at Philadelphia was now at hand; he went to that, determined to exert all his influence for its suppression. He proposed it to his fellow officers, and urged it with all his powers. It met an opposition which was observed to cloud his face with an anxiety, that the most distressful scenes of the war had scarcely ever produced. It was canvassed for several days, and, at length, it was no more a doubt what would be its ultimate fate. The order was on the point of receiving its annihilation, by the vote of a great majority of its members. In this moment, their envoy arrived from France, charged with letters from the French officers, accepting with cordiality the proposed badges of union, with solicitations from others to be received into the order, and with notice that their respectable Sovereign had been pleased to recognize it, and permit his officers to wear its badges. The prospect now changed. The question assumed a new form. After the offer made by them, and accepted by their friends, in what words could they clothe a proposition to retract it, which would not cover themselves with the reproaches of levity and ingratitude? which would not appear an insult to those whom they loved? Federal principles, popular discontent, were considerations whose weight was known and felt by themselves. But would foreigners know and feel them equally? Would they so far acknowledge their cogency, as to permit without any indignation, the eagle and ribbon to be torn from their breasts, by the very hands which had placed them there? The idea revolted the whole society. They found it necessary, then, to preserve so much of their institution as might continue to support this foreign branch, while they should prune off every other, which would give offence to their fellow citizens: thus sacrificing, on each hand, to their friends and to their country.

The society was to retain its existence, its name, its meetings, and its charitable funds: but these last were to be deposited with their respective legislatures. The order was to be no longer hereditary; a reformation, which had been pressed even from this side the Atlantic; it was to be communicated to no new members; the general meetings, instead of annual, were to be triennial only. The eagle and ribbon, indeed, were retained; because they were worn, and they wished them to be worn by their friends who were in a country where they would not be objects of offence; but themselves never wore them. They laid them up in their bureaus with the medals of American Independence, with those of the trophies they had taken, and the battles they had won. But through all the United States, no officer is seen to offend the public eye, with the display of this badge. These changes have tranquillized the American States. Their citizens feel too much interest in the reputation of their officers, and value too much, whatever may serve to recall to the memory of their allies, the moments wherein they formed but one people, not to do justice to the circumstance which prevented a total annihilation of the order. Though they are obliged by a prudent foresight, to keep out everything from among themselves, which might pretend to divide them into orders, and to degrade one description of men below another, yet they hear with pleasure, that their allies, whom circumstances have already placed under these distinctions, are willing to consider it as one, to have aided them in the establishment of their liberties, and to wear a badge which may recall them to their remembrance; and it would be an extreme affliction to them, if the domestic reformation which has been found necessary, if the censures of individual writers, or if any other circumstance should discourage the wearing their badge or lessen its reputation.

This short but true history of the order of the Cincinnati, taken from the mouths of persons on the spot, who were privy to its origin and progress, and who knew its present state, is the best apology which can be made for an insinuation, which appeared to be, and was really, so heterogeneous to the governments in which it was erected.

It should be further considered, that in America no other distinction between man and man had ever been known, but that of persons in office, exercising powers by authority of the laws, and private individuals. Among these last, the poorest laborer stood on equal ground with the wealthiest millionnaire, and generally on a more favored one, whenever their rights seemed to jar. It has been seen that a shoemaker or other artisan, removed by the voice of his country from his work bench into a chair of office, has instantly commanded all the respect and obedience which the laws ascribe to his office. But of distinction by birth or badge, they had no more idea than they had of the mode of existence in the moon or planets. They had heard only that there were such, and knew that they must be wrong. A due horror of the evils which flow from these distinctions, could be excited in Europe only, where the dignity of man is lost in arbitrary distinctions, where the human species is classed into several stages of degradation, where the many are crushed under the weight of the few, and where the order established, can present to the contemplation of a thinking being, no other picture than that of God Almighty and his angels, trampling under foot the host of the damned. No wonder, then, that the institution of the Cincinnati should be innocently conceived by one order of American citizens, should raise in the other orders, only a slow, temperate, and rational opposition, and should be viewed in Europe as a detestable parricide.

The second and third branches of this subject, no body can better execute than M. de Meusnier. Perhaps it may be curious to him to see how they strike an American mind at present. He shall, therefore, have the ideas of one who was an enemy to the institution from the first moment of its conception, but who was always sensible that the officers neither foresaw nor intended the injury they were doing to their country.

As to the question, then, whether any evil can proceed from the institution as it stands at present, I am of opinion their may. 1. From the meetings. These will keep the officers formed into a body; will continue a distinction between the civil and military, which it would be for the good of the whole to obliterate, as soon

as possible ; and the military assemblies will not only keep alive the jealousies and fears of the civil government, but give ground for these fears and jealousies. For when men meet together, they will make business if they have none ; they will collate their grievances, some real, some imaginary, all highly painted ; they will communicate to each other the sparks of discontent ; and these may engender a flame which will consume their particular, as well as the general happiness. 2. The charitable part of the institution is still more likely to do mischief, as it perpetuates the dangers apprehended in the preceding clause. For here is a fund provided of permanent existence. To whom will it belong ? To the descendants of American officers of a certain description. These descendants, then, will form a body, having sufficient interest to keep up an attention to their description, to continue meetings, and perhaps, in some moment, when the political eye shall be slumbering, or the firmness of their fellow citizens relaxed, to replace the insignia of the order and revive all its pretensions. What good can the officers propose which may weigh against these possible evils ? The securing their descendants against want ? Why afraid to trust them to the same fertile soil, and the same genial climate, which will secure from want the descendants of their other fellow citizens ? Are they afraid they will be reduced to labor the earth for their sustenance ? They will be rendered thereby both more honest and happy. An industrious farmer occupies a more dignified place in the scale of beings, whether moral or political, than a lazy lounger, valuing himself on his family, too proud to work, and drawing out a miserable existence, by eating on that surplus of other men's labor, which is the sacred fund of the helpless poor. A pitiful annuity will only prevent them from exerting that industry and those talents which would soon lead them to better fortune.

How are these evils to be prevented ? 1. At their first general meeting, let them distribute the funds on hand to the existing objects of their destination, and discontinue all further contributions. 2. Let them declare, at the same time, that their meetings, general and particular, shall thenceforth cease. 3. Let them melt up their eagles and add the mass to the distributable

fund, that their descendants may have no temptation to hang them in their button holes.

These reflections are not proposed as worthy the notice of M. de Meusnier. He will be so good as to treat the subject in his own way, and no body has a better. I will only pray him to avail us of his forcible manner, to evince that there is evil to be apprehended, even from the ashes of this institution, and to exhort the society in America to make their reformation complete; bearing in mind, that we must keep the passions of men on our side, even when we are persuading them to do what they ought to do.

Page 268. "Et en effet la population," &c. Page 270. "Plus de confiance."

To this we answer that no such census of the numbers was ever given out by Congress, nor ever presented to them: and further, that Congress never have, at any time, declared by their vote, the number of inhabitants in their respective States. On the 22d of June, 1775, they first resolved to emit paper money. The sum resolved on was two millions of dollars. They declared, then, that the twelve confederate colonies (for Georgia had not yet joined them) should be pledged for the redemption of these bills. To ascertain in what proportion each State should be bound, the members from each were desired to say, as nearly as they could, what was the number of the inhabitants of their respective States. They were very much unprepared for such a declaration. They guessed, however, as well as they could. The following are the numbers, as they conjectured them, and the consequent apportionment of the two millions of dollars.

	Inhabitants.	Dollars.
New Hampshire,	100,000	82,713
Massachusetts,	350,000	289,496
Rhode Island,	58,000	47,973
Connecticut,	200,000	165,426
New York,	200,000	165,426
New Jersey,	130,000	107,527
Pennsylvania,	300,000	248,139
Delaware,	30,000	24,813
Maryland,	250,000	206,783
Virginia,	400,000	330,852
North Carolina,	200,000	165,426
South Carolina,	200,000	165,426
	2,418,000	2,000,000

Georgia having not yet acceded to the measures of the other States, was not quotaed; but her numbers were generally estimated at about thirty thousand, and so would have made the whole two million four hundred and forty-eight thousand persons, of every condition. But it is to be observed, that though Congress made this census the basis of their apportionment, yet they did not even give it a place on their journals; much less publish it to the world with their sanction. The way it got abroad was this: As the members declared from their seats the number of inhabitants which they conjectured to be in their State, the secretary of Congress wrote them on a piece of paper, calculated the portion of two millions of dollars to be paid by each, and entered the sum only in the journals. The members, however, for their own satisfaction, and the information of their States, took copies of this enumeration and sent them to their States. From thence they got into the public papers: and when the English news writers found it answer their purpose to compare this with the enumeration of 1783, as their principle is "to lie boldly that they may not be suspected of lying," they made it amount to three millions one hundred and thirty-seven thousand eight hundred and nine, and ascribed its publication to Congress itself.

In April, 1785, Congress being to call on the States to raise a million and a half of dollars annually for twenty-five years, it was necessary to apportion this among them. The States had never furnished them with their exact numbers. It was agreed, too, that in this apportionment five slaves should be counted as three freemen only. The preparation of this business was in the hands of a committee; they applied to the members for the best information they could give them of the number of their States. Some of the States had taken pains to discover their numbers. Others had done nothing in that way, and, of course, were now where they were in 1775, when their numbers were first called on to declare their numbers. Under these circumstances, and on the principle of counting three-fifths only of the slaves, the committee apportioned the money among the States, and reported their work to Congress. In this they had assessed South Caro-

lina as having one hundred and seventy thousand inhabitants. The delegate for that State, however, prevailed on Congress to assess them on the footing of one hundred and fifty thousand only, in consideration of the state of total devastation in which the enemy had left their country. The difference was then laid on the other States, and the following was the result:—

	Inhabitants.	Dollars.
New Hampshire,	82,200	52,708
Massachusetts,	350,000	224,427
Rhode Island,	50,400	32,318
Connecticut,	206,000	132,091
New York,	200,000	128,243
New Jersey,	130,000	83,358
Pennsylvania,	320,000	205,189
Delaware,	35,000	22,443
Maryland,	220,700	141,517
Virginia,	400,000	256,487
North Carolina,	170,000	109,006
South Carolina,	150,000	96,183
Georgia,	25,000	16,030
	2,339,300	1,500,000

Still, however, Congress refused to give the enumeration the sanction of a place on their journals, because it was not formed on such evidence as a strict attention to accuracy and truth required. They used it from necessity, because they could get no better rule, and they entered on their journals only the apportionment of money. The members, however, as before, took copies of the enumeration, which was the groundwork of the apportionment, sent them to their States, and thus this second enumeration got into the public papers, and was by the English ascribed to Congress as their declaration of their present numbers. To get at the real numbers which this enumeration supposes, we must add twenty thousand to the number on which South Carolina was quoted; we must consider that seven hundred thousand slaves are counted but as four hundred and twenty thousand persons, and add, on that account, two hundred and eighty thousand. This will give us a total of two millions six hundred and thirty-nine thousand three hundred inhabitants of every condition in the thirteen States, being two hundred and twenty-one thousand three hundred more than the enumeration of 1775, instead of

seven hundred and ninety-eight thousand five hundred and nine less, which the English papers asserted to be the diminution of numbers in the United States, according to the confession of Congress themselves.

Page 272. "Comportera peut etre une population de thirty millions."

The territory of the United States contains about a million of square miles, English. There is, in them, a greater proportion of fertile lands than in the British dominions in Europe. Suppose the territory of the United States, then, to attain an equal degree of population with the British European dominions, they will have an hundred millions of inhabitants. Let us extend our views to what may be the population of the two continents of North and South America, supposing them divided at the narrowest part of the isthmus of Panama. Between this line and that of 50° of north latitude, the northern continent contains about five millions of square miles, and south of this line of division the southern continent contains about seven millions of square miles. I do not pass the 50th degree of northern latitude in my reckoning, because we must draw a line somewhere, and considering the soil and climate beyond that, I would only avail my calculation of it, as a make weight, to make good what the colder regions within that line may be supposed to fall short in their future population. Here are twelve millions of square miles, then, which, at the rate of population before assumed, will nourish twelve hundred millions of inhabitants, a number greater than the present population of the whole globe is supposed to amount to. If those who propose medals for the resolution of questions, about which nobody makes any question, those who have invited discussion on the pretended problem, Whether the discovery of America was for the good of mankind? if they, I say, would have viewed it only as doubling the numbers of mankind, and, of course, the quantum of existence and happiness, they might have saved the money and the reputation which their proposition has cost them. The present population of the inhabited parts of the United Stated is of about ten to the square mile; and experience has shown us, that wherever we reach that, the inhab-

itants become uneasy, as too much compressed, and go off in great numbers to search for vacant country. Within forty years their whole territory will be peopled at that rate. We may fix that, then, as the term beyond which the people of those States will not be restrained within their present limits; we may fix that population, too, as the limit which they will not exceed till the whole of those two continents are filled up to that mark, that is to say, till they shall contain one hundred and twenty millions of inhabitants. The soil of the country on the western side of the Mississippi, its climate, and its vicinity to the United States, point it out as the first which will receive population from that nest. The present occupiers will just have force enough to repress and restrain the emigrations to a certain degree of consistence. We have seen lately a single person go and decide on a settlement in Kentucky, many hundred miles from any white inhabitant, remove thither with his family and a few neighbors; and though perpetually harassed by the Indians, that settlement in the course of ten years has acquired thirty thousand inhabitants. Its numbers are increasing while we are writing, and the State, of which it formerly made a part, has offered it independence.

Page 280, line five. "Huit des onze Etats," &c. Say, "There were ten States present; six voted unanimously for it, three against it, and one was divided; and seven votes being requisite to decide the proposition affirmatively, it was lost. The voice of a single individual of the State which was divided, or of one of those which were of the negative, would have prevented this abominable crime from spreading itself over the new country. Thus we see the fate of millions unborn hanging on the tongue of one man, and heaven was silent in that awful moment! But it is to be hoped it will not always be silent, and that the friends to the rights of human nature will in the end prevail.

"On the 16th of March, 1785, it was moved in Congress that the same proposition should be referred to a committee, and it was referred by the votes of eight States against three. We do not hear that anything further is yet done on it."

Page 286. "L'autorité du Congrés etoit necessaire." The substance of the passage alluded to in the journal of Congress, May the 26th, 1784, is, "That the authority of Congress to make *requisitions* of troops during peace is questioned; that such an authority would be dangerous, combined with the acknowledged one of emitting or borrowing money; and that a few troops only being wanted to guard magazines and garrison the frontier posts, it would be more proper at present to *recommend* than to require."

Mr. Jefferson presents his compliments to M. de Meusnier, and sends him copies of the thirteenth, twenty-third, and twenty-fourth articles of treaty between the King of Prussia and the United States.

If M. de Meusnier proposes to mention the facts of cruelty of which he and Mr. Jefferson spoke yesterday, the twenty-fourth article will introduce them properly, because they produced a sense of the necessity of that article. These facts are, 1. The death of upwards of eleven thousand American prisoners in one prison ship (the Jersey), and in the space of three years. 2. General Howe's permitting our prisoners, taken at the battle of Germantown, and placed under a guard in the yard of the State-house of Philadelphia, to be so long without any food furnished them that many perished with hunger. Where the bodies laid, it was seen that they had eaten all the grass around them within their reach, after they had lost the power of rising, or moving from their place. 3. The second fact was the act of a commanding officer; the first, of several commanding officers, and for so long a time as must suppose the approbation of government. But the following was the act of government itself. During the periods that our affairs seemed unfavorable, and theirs successful, that is to say, after the evacuation of New York, and again, after the taking of Charleston, in South Carolina, they regularly sent our prisoners, taken on the seas and carried to England, to the East Indies. This is so certain, that in the month of November or December, 1785, Mr. Adams having officially

demanded a delivery of the American prisoners sent to the East Indies, Lord Cærmarthen answered, officially, "That orders were immediately issued for their discharge." M. de Meusnier is at liberty to quote this fact. 4. A fact to be ascribed not only to the government, but to the parliament, who passed an act for that purpose in the beginning of the war, was the obliging our prisoners taken at sea, to join them, and fight against their countrymen. This they effected by starving and whipping them. The insult on Captain Stanhope, which happened at Boston last year, was a consequence of this. Two persons, Dunbar and Lowthorp, whom Stanhope had treated in this manner (having particularly inflicted twenty-four lashes on Dunbar), meeting him at Boston, attempted to beat him. But the people interposed and saved him. The fact is referred to in that paragraph of the Declaration of Independence, which says, "He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands." This was the most afflicting to our prisoners of all the cruelties exercised on them. The others affected the body only, but this the mind; they were haunted by the horror of having, perhaps, themselves shot the ball by which a father or a brother fell. Some of them had constancy enough to hold out against half allowance of food and repeated whippings. These were generally sent to England, and from thence to the East Indies. One of them escaped from the East Indies, and got back to Paris, where he gave an account of his sufferings to Mr. Adams, who happened to be then at Paris.

M. de Meusnier, where he mentions that the slave law has been passed in Virginia, without the clause of emancipation, is pleased to mention, that neither Mr. Wythe, nor Mr. Jefferson was present, to make the proposition they had meditated; from which, people, who do not give themselves the trouble to reflect or inquire, might conclude hastily, that their absence was the cause why the proposition was not made; and, of course, that there were not in the Assembly, persons of virtue and firmness enough to propose the clause for emancipation. This supposi-

tion would not be true. There were persons there, who wanted neither the virtue to propose, nor talents to enforce the proposition, had they seen that the disposition of the legislature was ripe for it. These worthy characters would feel themselves wounded, degraded, and discouraged by this idea. Mr. Jefferson would therefore be obliged to M. de Meusnier, to mention it in some such manner as this. "Of the two commissioners, who had concerted the amendatory clause for the gradual emancipation of slaves, Mr. Wythe could not be present, he being a member of the judiciary department, and Mr. Jefferson was absent on the legation to France. But there were not wanting in that Assembly, men of virtue enough to propose, and talents to vindicate this clause. But they saw, that the moment of doing it with success was not yet arrived, and that an unsuccessful effort, as too often happens, would only rivet still closer the chains of bondage, and retard the moment of delivery to this oppressed description of men. What a stupendous, what an incomprehensible machine is man! who can endure toil, famine, stripes, imprisonment, and death itself, in vindication of his own liberty, and, the next moment be deaf to all those motives whose power supported him through his trial, and inflict on his fellow men a bondage, one hour of which is fraught with more misery, than ages of that which he rose in rebellion to oppose. But we must await, with patience, the workings of an overruling Providence, and hope that that is preparing the deliverance of these, our suffering brethren. When the measure of their tears shall be full, when their groans shall have involved heaven itself in darkness, doubtless, a God of justice will awaken to their distress, and by diffusing light and liberality among their oppressors, or, at length, by his exterminating thunder, manifest his attention to the things of this world, and that they are not left to the guidance of a blind fatality."

[The following are the articles of the treaty with Prussia, referred to in the preceding observations.]

Article 13. And in the same case, of one of the contracting parties being engaged in war with any other power, to prevent

all the difficulties and misunderstandings, that usually arise respecting the merchandise heretofore called contraband, such as arms, ammunition, and military stores of every kind, no such articles, carried in the vessels, or by the subjects or citizens of one of the parties, to the enemies of the other, shall be deemed contraband, so as to induce confiscation or condemnation, and a loss of property to individuals. Nevertheless, it shall be lawful to stop such vessels and articles, and to detain them for such length of time, as the captors may think necessary to prevent the inconvenience or damage that might ensue from their proceeding, paying, however, a reasonable compensation for the loss such arrest shall occasion to the proprietors; and it shall further be allowed to use, in the service of the captors, the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But in the case supposed, of a vessel stopped for articles heretofore deemed contraband, if the master of the vessel stopped, will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not, in that case, be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

Article 23. If war should arise between the two contracting parties, the merchants of either country, then residing in the other, shall be allowed to remain nine months to collect their debts, and settle their affairs, and may depart freely, carrying off all their effects, without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, artizans, manufacturers, and fishermen, unarmed, and inhabiting unfortified towns, villages, or places, and in general, all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses be burned or otherwise destroyed, nor their fields wasted by the armed force of the enemy, into whose power, by the events of war, they may happen to fall; but if anything is necessary to be taken from them, for the use of such armed force, the same shall be paid for at a reasonable price

And all merchant and trading vessels, employed in exchanging the products of different places, and thereby rendering the necessaries, conveniences, and comforts of human life more easy to be obtained, and more general, shall be allowed to pass free and unmolested. And neither of the contracting parties shall grant, or issue any commission to any private armed vessels, empowering them to take or destroy such trading vessels, or interrupt such commerce.

Article 24. And to prevent the destruction of prisoners of war, by sending them into distant and inclement countries, or by crowding them into close and noxious places, the two contracting parties solemnly pledge themselves to each other and the world, that they will not adopt any such practice; that neither will send the prisoners whom they may take from the other, into the East Indies or any other parts of Asia or Africa; but that they shall be placed in some part of their dominions in Europe or America, in wholesome situations, that they shall not be confined in dungeons, prison ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs. That the officers shall be enlarged, on their paroles, within convenient districts, and have comfortable quarters, and the common men be disposed in cantonments, open and extensive enough for air and exercise, and lodged in barracks as roomy and good, as are provided by the party in whose power they are, for their own troops; that the officers shall be daily furnished by the party, in whose power they are, with as many rations, and of the same articles and quality, as are allowed by them, either in kind or by commutation, to officers of equal rank in their own army; and all others shall be daily furnished by them, with such rations as they allow to a common soldier in their own service; the value whereof shall be paid by the other party, on a mutual adjustment of accounts for the subsistence of prisoners, at the close of the war; and the said accounts shall not be mingled with, or set off against any others, nor the balances due on them, be withheld as a satisfaction or reprisal for any other article, or for any other cause, real or pretended, whatever. That each party shall be allowed to keep a commissary

of prisoners, of their own appointment, with every separate cantonment of prisoners in possession of the other, which commissary shall see the prisoners as often as he pleases, shall be allowed to receive and distribute whatever comforts may be sent to them by their friends, and shall be free to make his reports in open letters, to those who employ him. But if any officer shall break his parole, or any other prisoners shall escape from the limits of his cantonment, after they shall have been designated to him, such individual officer, or other prisoner, shall forfeit so much of the benefit of this article, as provides for his enlargement on parole or cantonment. And it is declared, thatn either the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending this, or the next preceding article, but, on the contrary, that the state of war is precisely that for which they are provided, and during which they are to be as sacredly observed, as the most acknowledged articles in the law of nature and nations.

VI.

Answers to questions propounded by M. de Meusnier, Jan. 24th, 1786.

1. On the original establishment of the several States, the civil code of England, from whence they had emigrated, was adopted. This of course could extend only to general laws, and not to those which were particular to certain places in England only. The circumstances of the new States obliged them to add some new laws, which their special situation required, and even to change some of the general laws of England in cases which did not suit their circumstances or ways of thinking. The law of descents, for instance, was changed in several States. On the late revolution, the changes which their new form of government rendered necessary were easily made. It was only necessary to say that the powers of legislation, the judiciary, and the executive powers, heretofore exercised by persons of such

and such description, shall henceforth be exercised by persons to be appointed in such and such manners. This was what their constitution did. Virginia thought it might be necessary to examine the whole code of law, to reform such parts of it as had been calculated to produce a devotion to monarchy, and to reduce into smaller volume such useful parts as had become too diffuse. A committee was appointed to execute this work; they did it; and the Assembly began in October, 1785, the examination of it, in order to change such parts of the report as might not meet their approbation, and to establish what they should approve. We may expect to hear the result of their deliberations about the last of February next.

I have heard that Connecticut undertook a like work; but I am not sure of this, nor do I know whether any other of the States have or have not done the same.

2. The constitution of New Hampshire, established in 1776, having been expressly made to continue only during the contest with Great Britain, they proceeded, after the close of that, to form and establish a permanent one, which they did. The Convention of Virginia which organized their new government, had been chosen before a separation from Great Britain had been thought of in their State. They had, therefore, none but the ordinary powers of legislation. This leaves their act for organizing the government subject to be altered by every legislative assembly; and though no general change in it has been made, yet its effect has been controlled in several special cases. It is therefore thought that that State will appoint a convention for the special purpose of forming a stable constitution. I think no change has been made in any other of the States.

3. The following is a rough estimate of the particular debts of some of the States as they existed in the year 1784:

New Hampshire	$500,000
Rhode Island .	5,000,000
Massachusetts .	430,000
Connecticut . .	3,439,086⅔
Virginia	2,300,000.

United States' principal of Foreign debt nearly . . . . . $7,000,000.
The principal of the Domestic debt is somewhere between 27½ millions and 35½ millions, call it therefore . . . . . 31,300,000.
$38,300,000.

The other States not named here, are

probably indebted in the same proportion to their abilities. If so, and we estimate their abilities by the rule of quotaing them, those eight States will owe about fourteen millions, and consequently the particular debts of all the States will amount to twenty-five or twenty-six millions of dollars.

5. A particular answer to this question would lead to very minute details: one general idea, however, may be applied to all the States. Each having their separate debt, and a determinate proportion of the Federal debt, they endeavor to lay taxes sufficient to pay the interest of both of these, and to support their own and the Federal Government. These taxes are generally about one or one and a-half per cent. on the value of property; and from two and a-half to five per cent. on foreign merchandise imported. But the payment of this interest regularly, is not accomplished in many of the States. The people are as yet not recovered from the depredations of the war. When that ended their houses were in ruin, their farms waste, themselves distressed for clothing and necessaries for their households. They cannot as yet, therefore, bear heavy taxes. For the payment of the principal no final measures are yet taken. Some States will have land for sale, the produce of which may pay the principal debt. Some will endeavor to have an exceeding of their taxes to be applied as a sinking fund; and all of them look forward to the increase of population, and of course an increase of productions in their present taxes, to enable them to be sinking their debt. This is a general view. Some of the States have not yet made even just efforts for satisfying either the principal or interest of their public debt.

6. By the close of the year 1785 there had probably passed over about 50,000 emigrants. Most of these were Irish. The greatest number of the residue were Germans. Philadelphia receives most of them, and next to that, Baltimore and New York.

7. Nothing is decided as to Vermont. The four northernmost States wish it to be received into the Union. The Middle and Southern States are rather opposed to it. But the great difficulty arises with New York, which claims that territory. In the be-

ginning every individual revolted at the idea of giving them up. Congress therefore only interfered from time to time, to prevent the two parties from coming to an open rupture. In the meanwhile the minds of the New Yorkers have been familiarizing to the idea of a separation, and I think it will not be long before they will consent to it. In that case, the Southern and Middle States will doubtless acquiesce, and Vermont will be received into the Union.

8. LeMaine, a part of the government of Massachusetts, but detached from it, (the State of New Hampshire lying between,) begins to desire to be separated. They are very weak in numbers as yet: but whenever they shall attain a certain degree of population, there are circumstances which render it highly probable they will be allowed to become a separate member of the Union.

9. It is believed that the State of Virginia has by this time made a second cession of lands to Congress, comprehending all those between the meridian of the mouth of the Great Kanhaway, the Ohio, Mississippi, and Carolina boundary. Within this lies Kentucky. I believe that their numbers are sufficient already to entitle them to come into Congress. And their reception there will only increase the delay necessary for taking the consent of the several Assemblies. There is no other new State as yet approaching the time of its reception.

10. The number of Royalists which left New York, South Carolina and Georgia, when they were evacuated by the British army was considerable, but I am absolutely unable to conjecture their numbers. From all the other States, I suppose perhaps two thousand may have gone.

11. The Confederation is a wonderfully perfect instrument, considering the circumstances under which it was formed. There are, however, some alterations which experience proves to be wanting. These are principally three. 1. To establish a general rule for the admission of new States into the Union. By the confederation no new States, except Canada, can be permitted to have a vote in Congress without first obtaining the consent of all the thirteen legislatures. It becomes necessary to

agree what districts may be established into separate States, and at what period of their population they may come into Congress. The act of Congress of April 23, 1784, has pointed out what ought to be agreed on, to say also what number of votes must concur when the number of voters shall be thus enlarged. 2. The Confederation, in its eighth article, decides that the quota of money to be contributed by the several States shall be proportioned to the value of the landed property in the State. Experience has shown it impracticable to come at this value. Congress have therefore recommended to the States to agree that their quotas shall be in proportion to the number of their inhabitants, counting five slaves, however, but as equal to three free inhabitants. I believe all the States have agreed to this alteration except Rhode Island. 3. The Confederation forbids the States individually to enter into treaties of commerce, or of any other nature, with foreign nations: and it authorizes Congress to establish such treaties, with two reservations however, viz., that they shall agree to no treaty which would, 1. restrain the legislatures from imposing such duties on foreigners as natives are subject to; or 2., from prohibiting the exportation or importation of any species of commodities. Congress may therefore be said to have a power to regulate commerce so far as it can be effected by conventions with other nations, and by conventions which do not infringe the two fundamental reservations before mentioned. But this is too imperfect. Because, till a convention be made with any particular nation, the commerce of any one of our States with that nation may be regulated by the State itself, and even when a convention is made, the regulation of the commerce is taken out of the hands of the several States only so far as it is covered or provided for by that convention or treaty. But treaties are made in such general terms, that the greater part of the regulations would still result to the legislatures. Let us illustrate these observations by observing how far the commerce of France and England can be affected by the State Legislatures. As to England, any one of the legislatures may impose on her goods double the duties which are paid other nations; may prohibit their goods altogether; may refuse them the usual facilities for

recovering their debts or withdrawing their property; may refuse to receive their Consuls or to give those Consuls any jurisdiction. But with France, whose commerce is protected by a treaty, no State can give any molestation to that commerce which is defended by the treaty. Thus, though a State may exclude the importation of all wines (because one of the reservations aforesaid is that they may prohibit the importation of any species of commodities), yet they cannot prohibit the importation of French wines, particularly while they allow wines to be brought in from other countries. They cannot impose heavier duties on French commodities than on those of other nations. They cannot throw peculiar obstacles in the way of their recovery of debts due to them, &c., &c., because those things are provided for by treaty. Treaties, however, are very imperfect machines for regulating commerce in the detail. The principal objects in the regulation of our commerce would be: 1. to lay such duties, restrictions, or prohibitions on the goods of any particular nation, as might oblige that nation to concur in just and equal arrangements of commerce. 2. To lay such uniform duties on the articles of commerce throughout all the States, as may avail them of that fund for assisting to bear the burthen of public expenses. Now, this cannot be done by the States separately, because they will not separately pursue the same plan. New Hampshire cannot lay a given duty on a particular article unless Massachusetts will do the same, because it will turn the importation of that article from her ports into those of Massachusetts, from whence they will be smuggled into New Hampshire by land. But though Massachusetts were willing to concur with New Hampshire in laying the same duty, yet she cannot do it for the same reason, unless Rhode Island will also, nor can Rhode Island without Connecticut, nor Connecticut without New York, nor New York without New Jersey, and so on quite to Georgia. It is visible, therefore, that the commerce of the States cannot be regulated to the best advantage but by a single body, and no body so proper as Congress. Many of the States have agreed to add an article to the Confederation for allowing to Congress the regulation of their commerce, only pro-

viding that the revenues to be raised on it shall belong to the States in which they are levied. Yet it is believed that Rhode Island will prevent this also. An everlasting recurrence to this same obstacle will occasion a question to be asked. How happens it that Rhode Island is opposed to every useful proposition? Her geography accounts for it, with the aid of one or two observations. The cultivators of the earth are the most virtuous citizens, and possess most of the amor patriæ. Merchants are the least virtuous, and possess the least of the amor patriæ. The latter reside principally in the seaport towns, the former in the interior country. Now, it happened that of the territory constituting Rhode Island and Connecticut, the part containing the seaports was erected into a State by itself, called Rhode Island, and that containing the interior country was erected into another State called Connecticut. For though it has a little sea-coast, there are no good ports in it. Hence it happens that there is scarcely one merchant in the whole State of Connecticut, while there is not a single man in Rhode Island who is not a merchant of some sort. Their whole territory is but a thousand square miles, and what of that is in use is laid out in grass farms almost entirely. Hence they have scarcely any body employed in agriculture. All exercise some species of commerce. This circumstance has decided the characters of these two States. The remedies to this evil are hazardous. One would be to consolidate the two States into one. Another would be to banish Rhode Island from the Union. A third, to compel her submission to the will of the other twelve. A fourth, for the other twelve to govern themselves according to the new propositions, and to let Rhode Island go on by herself according to the ancient articles. But the dangers and difficulties attending all these remedies are obvious.

These are the only alterations proposed to the confederation, and the last of them is the only additional power which Congress is thought to need.

12. Congress have not yet ultimately decided at what rates they will redeem the paper money in the hands of the holders. But a resolution of 1784 has established the principle, so that

there can be little doubt but that the holders of paper money will receive as much real money as the paper was actually worth at the time they received it, and an interest of six per cent. from the time they received it. Its worth will be found in the depreciation table of the State wherein it was received; these depreciation tables having been formed according to the market price of the paper money at different epochs.

13. Those who talk of the bankruptcy of the United States, are of two descriptions: 1. Strangers who do not understand the nature and history of our paper money. 2. Holders of that paper money who do not wish that the world should understand it. Thus, when in March, 1780, the paper money being so far depreciated that forty dollars of it would purchase only one silver dollar, Congress endeavored to correct the progress of that depreciation by declaring they would emit no more, and would redeem what was in circulation at the rate of one dollar of silver for forty of paper; this was called by the brokers in paper money, a bankruptcy. Yet these very people who had only given one dollar's worth of provisions, of manufactures, or perhaps of silver, for their forty dollars, were displeased that they could not in a moment multiply their silver into forty. If it were decided that the United States should pay a silver dollar for every paper dollar they emitted, I am of opinion (conjecturing from loose data of my memory only as to the amount and true worth of the sums emitted by Congress and by the several States) that a debt, which in its just amount is not more, perhaps, than six millions of dollars, would amount up to four hundred millions, and instead of assessing every inhabitant with a debt of about two dollars, would fix on him thirty guineas, which is considerably more than the national debt of England affixes on each of its inhabitants, and would make a bankruptcy where there is none. The real just debts of the United States, which were stated under the third query, will be easily paid by the sale of their lands, which were ceded on the fundamental condition of being applied as a sinking fund for this purpose.

14. The whole army of the United States was disbanded at the close of the war. A few guards only were engaged for

their magazines. Lately they have enlisted some two or three regiments to garrison the posts along the Northern boundary of the United States.

16. The United States do not own, at present, a single vessel of war; nor has Congress entered into any resolution on that subject.

17. I conjecture there are six hundred and fifty thousand negroes in the five southernmost States, and not fifty thousand in the rest. In most of these latter, effectual measures have been taken for their future emancipation. In the former, nothing is done towards that. The disposition to emancipate them is strongest in Virginia. Those who desire it, form, as yet, the minority of the whole State, but it bears a respectable portion to the whole in numbers and weight of character, and it is continually recruiting by the addition of nearly the whole of the young men as fast as they come into public life. I flatter myself it will take place there at some period of time not very distant. In Maryland and North Carolina a very few are disposed to emancipate. In South Carolina and Georgia, not the smallest symptom of it, but, on the contrary, these two States, and North Carolina, continue importations of negroes. These have been long prohibited in all the other States.

18. In Virginia, where a great proportion of the legislature consider the constitution but as other acts of legislation, laws have been frequently passed which controlled its effects. I have not heard that in the other States they have ever infringed their constitution, and I suppose they have not done it, as the Judges would consider any law as void which was contrary to the constitution. Pennsylvania is divided into two parties very nearly equal, the one desiring to change the constitution, the other opposing a change. In Virginia there is a part of the State which considers the act for organizing their government as a constitution, and are content to let it remain; there is another part which considers it only as an ordinary act of the legislature, who, therefore, wish to form a real constitution, correcting some defects which have been observed in the act now in force. Most of the young people as they come into office arrange them-

selves on this side, and I think they will prevail ere long. But there are no heats on this account. I do not know that any of the other States propose to change their constitution.

19. I have heard of no malversations in office which have been of any consequence, unless we consider as such some factious transactions in the Pennsylvania Assembly; or some acts of the Virginia Assembly which have been contrary to their constitution. The causes of these were explained in the preceding article.

20. Broils among the States may happen in the following ways: 1. A State may be embroiled with the other twelve by not complying with the lawful requisitions of Congress. 2. Two States may differ about their boundaries. But the method of settling these is fixed by the confederation, and most of the States which have any differences of this kind, are submitting them to this mode of determination, and there is no danger of opposition to the decree by any State. The individuals interested may complain, but this can produce no difficulty. 3. Other contestations may arise between two States, such as pecuniary demands, affrays among their citizens, and whatever else may arise between any two nations, with respect to these, there are two opinions. One that they are to be decided according to the ninth article of the confederation, which says that Congress shall be the last resort in all differences between two or more States, concerning boundary jurisdiction, *or any other cause whatever;* and prescribes the mode of decision, and the weight of reason is undoubtedly in favor of this opinion, yet there are some who question it.

It has been often said that the decisions of Congress are impotent because the confederation provides no compulsory power. But when two or more nations enter into compact, it is not usual for them to say what shall be done to the party who infringes it. Decency forbids this, and it is as unnecessary as indecent, because the right of compulsion naturally results to the party injured by the breach. When any one State in the American Union refuses obedience to the confederation by which they have bound themselves, the rest have a natural right to compel

them to obedience. Congress would probably exercise long patience before they would recur to force; but if the case ultimately required it, they would use that recurrence. Should this case ever arise, they will probably coerce by a naval force, as being more easy, less dangerous to liberty, and less likely to produce much bloodshed.

It has been said, too, that our governments, both federal and particular, want energy; that it is difficult to restrain both individuals and States from committing wrong. This is true, and it is an inconvenience. On the other hand, that energy which absolute governments derive from an armed force, which is the effect of the bayonet constantly held at the breast of every citizen, and which resembles very much the stillness of the grave, must be admitted also to have its inconveniences. We weigh the two together, and like best to submit to the former. Compare the number of wrongs committed with impunity by citizens among us with those committed by the sovereign in other countries, and the last will be found most numerous, most oppressive on the mind, and most degrading of the dignity of man.

22. The States differed very much in their proceedings as to British property, and I am unable to give the details. In Virginia, the sums sequestered in the treasury remain precisely as they did at the conclusion of the peace. The British having refused to make satisfaction for the slaves they carried away, contrary to the treaty of peace, and to deliver up the posts within our limits, the execution of that treaty is in some degree suspended. Individuals, however, are paying off their debts to British subjects, and the laws even permit the latter to recover them judicially. But as the amount of these debts are twenty or thirty times the amount of all the money in circulation in that State, the same laws permit the debtor to pay his debts in seven equal and annual payments.

VII.

Notes on M. Soulés' work.

PARIS, Sept. 13th, 1786.

SIR,—Before the receipt of your favor of the 11th inst. I had written the enclosed short notes on such parts of your work as I have been yet able to go over. You will perceive that the corrections are very trifling. Such as they are, I will continue them, and forward them to you from time to time as I get along. I will endeavor also to answer such of the queries you propose in your letter as my memory will enable me to do with certainty. Some of them I shall be unable to answer, having left in America all my notes, memorandums, &c., which might have enabled me to give you the information you desire. I have the honor to be, with the most esteem and respect, sir,

Your most obedient humble servant.

M. SOULÉS. TH: JEFFERSON.

Answers to the queries of M. Soulés.

I AM unable to say what was the number of Americans engaged in the affair of Bunker's Hill. I am able, however, to set right a gross falsehood of Andrews. He says the Americans there engaged were constantly relieved by fresh hands. This is entirely untrue. Bunker's Hill [or rather Breed's hill whereon the action was) is a peninsular joined to the main land by a neck of land almost level with the water, a few paces wide, and about one or two hundred toises long. On one side of this neck lay a vessel of war, and on the other several gun-boats. The body of our army was on the main land, and only a detachment had been sent into the peninsular. When the enemy determined to make the attack, they sent the vessel of war and gun-boats to take the position, before mentioned, to cut off all reinforcements, which they effectually did. Not so much as a company could venture to the relief of the men engaged, who therefore fought through the whole action, and at length were obliged to retire across the neck through the cross-fire of the vessels before mentioned.

"On the fall of Montgomery and his aids at Quebec, there were present Colonel Campbell and Major Dubois. Campbell, though having the rank of colonel, was only of the staff; Dubois was

of the line. The usage of all nations, therefore, authorized the latter to take the command. But it was a case for which Congress had not yet provided. Campbell availed himself of this; and believing, on the sight of blood, that all was lost, ordered a retreat."

The speech to the Indians, in Andrews', page 357, is a little altered and abridged. You will find the genuine one in the Journal of Congress, of July, 1775. I do not distinctly enough recollect the anecdote of the old man's company, related by Andrews, to affirm it in all its parts. I think I recollect in general that there was such a company.

The questions relative to General Thomas, I could only have answered indistinctly from my own memory: but fortunately there came to Paris a few days ago, and will yet continue there a few days, a Colonel Blackden, an American officer of good understanding and of truth, and who was at the latter part of the affair of Quebec. He was at the surprise of Ticonderoga by Allen, and continued with the army until 1781. I have spoken with him on this subject, and find that he possesses treasures of details, which will be precious to M. Soulés. Any day that M. Soulés will do me the honor to come and take a *famile soupe* with me, (after the 16th instant,) if he will give me notice in the morning, I will ask Colonel Blackden to meet him here, and will make them acquainted. He is perfectly disposed to give all the information in his power to M. Soulés, and whatever he gives may be relied on. To him, then, I shall refer M. Soulés for answers to his military questions, and will wait his orders, recommending despatch, as Colonel Blackden has not long to stay.

The Stamp Act was passed in February, 1765.

What powers the Parliament might rightfully exercise over us, and whether any, had never been declared either by them or us. They had very early taken the gigantic step of passing the Navigation Act. The colonies remonstrated violently against it, and one of them, Virginia, when she capitulated to the commonwealth of England, expressly capitulated for a free trade. [See the articles on the Notes on, Virginia, p. 201.] This capitulation, however, was as little regarded as the original right, restored by

it, had been. The navigation act was re-enacted by Charles, and was enforced. And we had been so long in the habit of seeing them consider us merely as objects for the extension of their *commerce*, and of submitting to every duty or regulation imposed with that view, that we had ceased to complain of them. But when they proposed to consider us as objects of *taxation*, all the States took the alarm. Yet so little had we attended to this subject, that our advocates did not at first know on what ground to take their stand. Mr. Dickenson, a lawyer of more ingenuity than sound judgment, and still more timid than ingenious, not daring to question the authority to regulate commerce so as best to answer their own purpose, to which we had so long submitted, admitted that authority in its utmost extent. He acknowledged * * * * * * that they could levy duties, internal or external, payable in Great Britain or in the States. He only required that these duties should be bona fide for the *regulation* of commerce, and not to raise a solid *revenue*. He admitted, therefore, that they might control our commerce, but not tax us. This mysterious system took, for a moment, in America as well as in Europe. But sounder heads saw in the first moment, that he who could put down the loom, could stop the spinning wheel, and he who could stop the spinning wheel could tie the hands which turned it. They saw that this flimsey fabric could not be supported. Who were to be judges whether duties were imposed with a view to burthen and suppress a branch of manufacture, or to raise a revenue? If either party, exclusively of the other, it was plain where that would end. If both parties, it was plain where that would end also. They saw, therefore, no sure clue to lead them out of their difficulties but reason and right. They dared to follow them, assured that they alone could lead them to defensible ground. The first elements of reason showed that the members of Parliament could have no power which the people of the several counties had not. That these had naturally a power over their own farms, and, collectively, over all England. That if they had any power over counties but of England, it must be founded on compact or force. No compact could be

shown, and neither party chose to bottom their pretensions on force. It was objected that this annihilated the navigation act. True, it does. The navigation act, therefore, becomes a proper subject of treaty between the two nations. Or if Great Britain does not choose to have its basis questioned, let us go on as we have done. Let no new shackles be imposed, and we will continue to submit to the old. We will consider the restrictions on our commerce, now actually existing, as compensations yielded by us for the protection and privileges we actually enjoy, only trusting that if Great Britain, on a revisal of these restrictions, is sensible that some of them are useless to her and oppressive to us, she will repeal them. But on this she shall be free. Place us in the condition we were when the king came to the throne, let us rest so, and we will be satisfied. This was the ground on which all the States very soon found themselves rallied, and that there was no other which could be defended.

I will now proceed with remarks on the history. I do not think that M. Soulés mentioned the affair of the Cedars, which happened in April, 1775. This was an affair of no small importance. A committee was appointed by Congress to institute inquiries concerning it, as may be seen by the journal of June 14, 1776. The report of that committee is inserted in the journal of July the 10th, and I can assure M. Soulés, that the facts therein stated were proved unhesitatingly to the committee by witnesses present at the transactions, and who were on watch. I have the originals of that inquiry in my possession in America. The Captain Foster therein mentioned, was afterwards taken with Burgoyne's army, though permitted to go at large on his parole. He was not received into any American company, nor did the British officers, his fellow-prisoners, choose to be seen in company with him—so detestable had been the transaction, &c. Vol. i. p. 324. I have been very well informed, that during all the latter part of the defence, the garrison were obliged to return the cannon balls of the enemy, with which, indeed, the ground was covered, having none of their own left.

Page 325. "Il l'eut un Serjent," &c. This particular truly related in Andrews.

Page 5. "Ils en vinrent," &c. See the journal of Congress. That it was on that day put off to the 1st of July. This was done at the instance of the members opposed to it. The friends of the resolution objected, that if it were not agreed to till the 1st of July, they would after that have to frame a Declaration of Independence, and that more time would then be lost. It was therefore agreed between the two, that the resolution should be put off till the 1st of July; and that a committee should be immediately appointed to draw a Declaration of Independence, conformable to the resolution, should it be adopted. A committee was accordingly appointed the next day. On the 1st of July the resolution was proposed, and when ready for a vote, a State required it to be put off till the next day. It was done, and was passed the next day, 2d of July. The Declaration of Independence was debated the 2d, 3d and 4th days of July, and on the last of these was passed and signed.

Page 6th. A "se retirerent enseute du Congres." I do not remember that the delegates of Maryland retired from Congress, and I think I could not have forgotten such a fact. On the contrary, I find by the journal of Congress, that they were present, and acting on the 11th, 12th, 17th, 18th and 24th of June.

Page 7. A "la plus grande partie." It should rather be the most important parts.

Page 7, 6. "Les etats ferrient encore aujourdhui partie de l'empire Britannique." M. Soul's may be assured that the submission of the States could not have been effected but by a long course of disasters, and such, too, as were irreparable in their nature. Their resources were great, and their determination so rooted, that they would have tried the last of them. I am as satisfied as I can be of anything, that the conjecture here stated would not have been verified by the event.

Page 14. "Provinces unis," should not this always be "etats unis?"

Page 15. "Mais qu'on pouvoir aussi les interpreter," &c. His exact answer was, "That it was true the, &c. might include *anything*, but that might also include *nothing*."

Page 16. "Tant de confiance," &c. Their main confidence

was in their own resources. They considered foreign aid as probable and desirable, but not essential. I believe myself, from the whole of what I have seen of our resources and perseverance, that had we never received any foreign aid, we should not have obtained our independence. But that we should have made a peace with Great Britain on any terms we pleased short of that, which would have been a subjection to the same king, a union of force in war, &c. 2. That had France supplied us plentifully with money, suppose about four millions of guineas a year, without entering into the war herself at all, we should have established our independence, but it would have cost more time and blood, but less money. 3. That France, aiding us as she did, with money and forces, shortened much the time, lessened the expense of blood, but at a greater expense of money to her than would have otherwise been requisite.

Page 18. "*L'extremité* septentrional," &c. I think the word "çotè" would be better adapted than "extremité" to the form of the island.

Page 21. "3000 hommes," inquire of Colonel Blackden.

Perhaps the propositions of Congress to the Hessians may be worth mentioning. See their journals, 1776, Aug. 14.

I will make a general observation here on the events of Long Island, New York, &c., at this time. The maxim laid down by Congress to their generals was, that not a foot of territory was to be ceded to their enemies where there was a possibility of defending it. In consequence of these views, and against his own judgment, General Washington was obliged to fortify and attempt to defend the city of New York. But that could not be defended without occupying the heights on Long Island which commanded the city of New York. He was therefore obliged to establish a strong detachment in Long Island to defend those heights. The moment that detachment was routed, which he had much expected, his first object was to withdraw them, and his second to evacuate New York. He did this, therefore, immediately, and without waiting any movement of the enemy. He brought off his whole baggage, stores and other implements, without leaving a single article except the very heaviest of his cannon and things

of little value. I well remember his letter to Congress, wherein he expressed his wonder that the enemy had given him this leisure, as, from the heights they had got possession of, they might have compelled him to a very precipitate retreat. This was one of the instances where our commanding officers were obliged to conform to popular views, though they foresaw certain loss from it. Had he proposed at first to abandon New York, he might have been abandoned himself. An obedience to popular will cost us an army in Charleston in the year 1779.

Page 30. "Une fuite precipiteé." It was a leisurely retreat as I have before observed.

Page 41. "Que je n'ai prie obtener que d'un anglais." Colonel Blackden can probably give M. Soulés good intelligence on this affair. I think I recollect the slaughter on Kniphauser's side to have been very great.

Volume 3. "Si dans son institution," &c.

This is a luminous idea, and worthy of being a little more developed. It places the question between Great Britain and America in the simplest form possible. No Englishman will pretend that a right to participate in government can be derived from any other source than a personal right, or a right of property. The conclusion is inevitable that he, who had neither his *person* nor *property* in America, could rightfully assume a participation in its government.

Page 17. The seeds of the war are here traced to their true source. The tory education of the King was the first preparation for that change in the British government which that party never ceases to wish. This naturally ensured tory administrations during his life. At the moment he came to the throne and cleared his hands of his enemies by the peace of Paris, the assumptions of unwarrantable right over America commenced. They were so signal, and followed one another so close, as to prove they were part of a system, either to reduce it under absolute subjection, and thereby make it an instrument for attempts on Britain itself, or to sever it from Britain, so that it might not be a weight in the whig scale. This latter alternative, however, was not considered as the one which would take place. They

knew so little of America, that they thought it unable to encounter the little finger of Great Britian. M. de Soulés has well developed this subject. He is best judge whether anything more need be said on this subject.

Page 43. "Se le ministere anglais avoit eu la patience d'attendre," &c.

Having seen and intimately known the positions of the Americans at that moment, I am certain that this conjecture would not have been verified. The determined resolution with which they met every effort of the ministry, whether made in the form of force, fraud, or persuasion, gives us a moral certainty they would have been equally immoveable, if tried in the way of privation here proposed.

Page 51. The substitution of Gage for Hutchinson was not intended as a favor, but, by putting the civil government into military hands, was meant to show they would enforce their measures by arms. See page 109, where Congress makes it one of their grievances.

Page 102. "Plusieurs criminals," &c. Notwithstanding the laws the English made, I think they never ventured to carry a single person to be tried in England. They knew that reprisals would be made, and probably on the person of the governor who ventured on the measure.

Page 149. The fact that the English commenced hostilities at Lexington being proved beyond question by us, and even acknowledged by the English, justice requires it should be plainly asserted and left clear of doubt. Few of the facts which history asserts and relies on, have been so well established.

Page 150. "L'humanité des Britons." I doubt whether this is the character of the nation in general. But this history, and every one which is impartial, must in its relation of this war show, in such repeated instances, that they conducted it, both in theory and practice, on the most barbarous principles, that the expression here cited will stand in contradiction to the rest of the work. As examples of their theory, recollect the act of Parliament for constraining our prisoners, taken on the sea, to bear arms against their fathers, brothers, &c. For their practice, recollect the ex-

citing the savages against us, insurrections of our slaves, sending our prisoners to the East Indies, killing them in prison ships, keeping them on half rations, and of the most unwholesome quality, cruel murders of unarmed individuals of every sex, massacres of those in arms after they had asked quarters, &c., &c.

Page 150. "A cé que l'on dét à 20,000 hommes." It was of 22,000 men. I was in a situation to know the fact from General Washington's own information.

Page 158. l. 8. Strike out "ét probablement," and insert "mais veritablement." I remember the fact well, and the leading persons of Connecticut, and particularly their delegates in Congress made no secret, that their object was to overawe New York into its duty. Page 159. "El frit resolvè de la reduire [*i. e.*, nouvelle York] en cendre." This was proposed and considered in Congress, but they refused to come to this resolution, nor do I recollect that any other body resolved it.

Page 163. *Doctor* Franklin has been called by that title as early as 1760, within my own knowledge; I do not know how much longer.

His quality in France was that of Minister Plenipotentiary, and not as Ambassador. We have never appointed an Ambassador. France offered to receive one.

Page 166. The English set fire to Charleston. Query, as to the number of their killed.

Page 180. 181. Gates was and still is an inhabitant of Virginia. He never lived in any other State.

Page 190. "M. Arnold avoit formé une entreprise," &c. I never understood that he formed this enterprise, nor do I believe he did. I heard and saw all General Washington's letters on this subject. I do not think he mentioned Arnold as author of the proposition, yet he was always just in ascribing to every officer the merit of his own works: and he was disposed particularly in favor of Arnold. This officer is entitled to great merit in the execution, but to ascribe to him that of having formed the enterprise, is probably to ascribe to him what belongs to General Washington or some other person.

Page 209. "Et qu' il ne leur fut plus permis de lever la

milice, &c." They had formerly had a law on the subject of invasions and insurrections, which was of a perpetual tenor. They altered this law by one which was to be in force for a certain term of years only. That term of years effluxed at this time, the altering law expired, and therefore, the old one resumedits vigor. It was very imperfect, yet they chose to act under the color of that rather than without any color of law.

Page 216. "Dont elles se plaignorent." This seems to be the proper place to rectify a small error in the arrangement of facts, and to state the answer to the conciliatory proposition, which was, in truth, the first work of the Assembly. I have not here the journals of the Assembly, but there are certain circumstances which render it impossible for my memory to lead me astray. I was under appointment to attend the general Congress; but knowing the importance of the answer to be given to the conciliatory proposition, and that our leading whig characters were then in Congress, I determined to attend on the Assembly, and, though a young member, to take on myself the carrying through an answer to the proposition. The Assembly met the 1st of June. I drew and proposed the answer, and carried it through the house with very little alteration, against the opposition of our timid members who wish to speak a different language. This was finished before the 11th of June, because on that day, I set out from Williamsburg to Philadelphia, and was the bearer of an authenticated copy of this instrument to Congress. The effect it had in fortifying their minds, and in deciding their measures, renders its true date important; because only Pennsylvania had as yet answered the proposition. Virginia was the second. It was known how Massachusetts would answer it, and the example of these three principal colonies would determine the measures of all the others, and of course the fate of the proposition. Congress received it therefore, with much satisfaction. The Assembly of Virginia did not deliver the answer to Lord Dunmore till late in the session. They supposed it would bring on a dissolution of their body whenever they should deliver it to him; and they wished previously to get some important acts passed. For this reason they

kept it up. I think that Lord Dunmore did not quit the Metropolis till he knew that the answer framed by the house was a rejection of the proposition, though that answer was not yet communicated to him regularly.

Page 231. "Quelques certaines de blancs." These were composed principally of Scotch merchants and factors, and some few English, who had settled in the country. I doubt whether there was a single native among them. If M. Soulés could therefore characterise more particularly who they were who joined Lord Dunmore, it would be an agreeable act of justice to the natives.

Page 283. "Les Americains qui avoit joint Milord Dunmore.' The same observation applies to this.

Page 245. "Pendant l'eté, le congres general avoit eté occupé à dresser un plan pour former une confederation." It is necessary to set to rights here a fact which has been mistaken by every person who has written on this subject. I will do it from a perfect recollection of facts, but my memory does not enable me to state the date exactly. I was absent from Congress from the beginning of January, 1776, to the middle of May. Either just before I left Congress, or immediately on my return to it, (I rather think it was the former,) Doctor Franklin put into my hands the draught of a plan of Confederation, desiring me to read it, and tell him what I thought of it. I approved it highly. He showed it to others. Some thought as I did; others were revolted at it. We found it could not be passed, and the proposing it to Congress as the subject for any vote whatever would startle many members so much, that they would suspect we had lost sight of reconciliation with Great Britain, and that we should lose much more ground than we should gain by the proposition. Yet, that the idea of a more firm bond of union than the undefined one under which we then acted might be suggested and permitted to grow, Doctor Franklin informed Congress that he had sketched the outlines of an instrument which might become necessary at a future day, if the minority continued pertinacious, and would ask leave for it to lay on the table of Congress, that the members might in the meantime be

turning the subject in their minds, and have something more perfect prepared by the time it should become necessary. This was agreed to by the timid members, only on condition, that no entry whatever should be made in the journals of Congress relative to this instrument. This was to continue in force only till a reconciliation with Great Britain. This was all that ever was done or proposed in Congress on the subject of a Confederation before June 1776, when the proposition was regularly made to Congress, a committee appointed to draw an instrument of Confederation, who accordingly drew one, very considerably differing from the sketch of Doctor Franklin.

Page 294. "Il est á croire qu'il y avoit quelque convention." It is well known that there was such a convention. It was never made a secret of, on our part. I do not exactly recollect its terms, but I believe they were what M. Soulés states.

Page 301. "La petite verole." I have been informed by officers who were on the spot, and whom I believe myself, that this disorder was sent into our army designedly by the commanding officer in Quebec. It answered his purpose effectually.

VIII.

Observations on the letter of Monsieur de Calonnes, to Monsieur Jefferson, dated Fontainebleau. October 22d, 1786.

A committee was appointed, in the course of the last year, to take a view of the subjects of commerce which might be brought from the United States of America, in exchange for those of France, and to consider what advantages and facilities might be offered to encourage that commerce. The letter of Monsieur de Calonnes was founded on their report. It was conclusive as to the articles on which satisfactory information had been then obtained, and reserved for future consideration certain others needing further enquiry. It is proposed, now, to review those unfinished articles, that they also may be comprehended

in the Arrêt, and the regulations on this branch of commerce be rendered complete.

1st. The letter promises to diminish the Droits du roi et d' amirauté, payable by an American vessel entering into a port of France, and to reduce what should remain into a single duty, which shall be regulated by the draught of the vessel, or her number of masts. It is doubted whether it will be expedient to regulate the duty in either of these ways. If by the draught of water, it will fall unequally on us as a Nation; because we build our vessels sharp-bottomed, for swift sailing, so that they draw more water than those of other nations, of the same burthen; if by the number of masts, it will fall unequally on individuals, because we often see ships of one hundred and eighty tons, and brigs of three hundred and sixty. This, then, would produce an inequality among individuals of six to one. The present principle is the most just, to regulate by the burthen.

It is certainly desirable that these duties should be reduced to a single one. Their names and numbers perplex and harass the merchant more than their amount, subject him to imposition, and to the suspicion of it where there is none. An intention of general reformation in this article has been accordingly announced * with augmentation as to foreigners. We are in hopes that this augmentation is not to respect us; because it is proposed as a measure of reciprocity; whereas, in some of our States no such duties exist, and in others they are extremely light; because we have been made to hope a diminution instead of augmentation; and because this distinction cannot draw on France any just claims from other nations, the *Jura gentis amicissimæ* conferred by her late treaties having reference expressly to the nations of Europe only; and those conferred by the more ancient ones not being susceptible of any other interpretation, nor admitting a pretension of reference to a nation which did not then exist, and which has come into existence under circumstances distinguishing its commerce from that of all other nations. Merchandise received from them take employment from the poor of France; ours give it; theirs is brought in the last

* Memoires presentées à l'assemblée des Notables, page 53.

stage of manufacture, ours in the first; we bring our tobaccoes to be manufactured into snuff, our flax and hemps into linen and cordage, our furs into hats, skins into saddlery, shoes, and clothing; we take nothing till it has received the last hand.

2d. Fish-oils. The Hanseatic treaty was the basis on which the diminution of duty on this article was asked and granted. It is expressly referred to as such in the letter of Monsieur de Calonnes. Instead, however, of the expression "huile et graisse de baleine and d'autres poissons" used in that treaty, the lette uses the terms "huiles de baleine, spermaceti, et tout ce qui est compris sous ces denominations." And the farmers have availed themselves of this variation to refuse the diminution of duty on the oils of the vache marine, chien de mer, esturgeon, and other fish. It is proposed, therefore, to re-establish in the Arrêt the expressions of the Hanseatic treaty, and to add from the same treaty the articles "baleine coupee et fanon de baleine."

The letter states these regulations as finally made by the King. The merchants on this supposition entered into speculations. But they found themselves called on for the old duties, not only on other fish oils, but on the whale oil. Monsieur de Calonnes always promised that the Arrêt should be retrospective to the date of the letter, so as to refund to them the duties they had thus been obliged to pay. To this attention is prayed in forming the Arrêt. His majesty having been pleased, as an encouragement to the importation of our fish oils, to abolish the Droits de fabrication, it is presumed that the purpose *announced of continuing those dutieson foreign oils will not be extended to us.

3d. Rice. The duty on this is only seven and a half deniers the quintal, or about one-quarter per cent. on its first cost. While this serves to inform the government of the quantities imported, it cannot discourage that importation. Nothing further, therefore, is necessary on this article.

4th. Potash. This article is of principal utility to France in her bleacheries of linen, glass-works, and soap-works; and the potash of America, being made of green wood, is known to be

* Memoires presentées ex. page 51, 52.

the best in the world. All duty on it was therefore abolished by the King. But the city of Rouen levies on it a duty of twenty sols the quintal, which is very sensible in its price, brings it dearer to the bleacheries near Paris, to those of Beauvais, Laval Company, and to the glass-works, and encourages them to give a preference to the potash or soda of other nations. This is a counteraction of the views of the King expressed in the letter, which it is hoped will be prevented.

5th. Turpentine, tar, and pitch, were not decided on the former occasion. Turpentine (Terebenthine) pays ten sols the quintal, and ten sols the livre, making fifteen sols the quintal; which is ten per cent. on its prime cost. Tar, (goudron, braigras) pays eight livres the leth of twelve barrels, and ten sols the livre, amounting to twenty sols the barrel, which is twelve and a half per cent. on its prime cost. Pitch (brai sec) pays ten sols the quintal, and ten sols the livre, making fifteen sols the quintal, which is twenty per cent. on its prime cost. Duties of from ten to twenty per cent. on articles of heavy carriage, prevent their importation. They eat up all the profits of the merchant, and often subject him to loss. This has been much the case with respect to turpentine, tar, and pitch, which are a principal article of remittance for the State of North Carolina. It is hoped that it will coincide with the views of government in making the present regulations, to suppress the duties on these articles, which of all others can bear them least.

IX.

* *Proposals for concerted operation among the powers at war with the piratical States of Barbary, November* 1786.

1. It is proposed that the several powers at war with the piratical States of Barbary, (or any two or more of them who

* [This plan was approved by Portugal, Naples, the two Sicilies, Venice, Denmark, and Sweden. France seemed favorably disposed. Spain alone, having just concluded a treaty with Algiers, was indisposed. In this state of things,

shall be willing,) shall enter into a convention to carry on their operations against those States in concert, beginning with the Algerines.

2. This convention shall remain open to any other power who shall, at any future time, wish to accede to it: the parties reserving a right to prescribe the conditions of such accession according to the circumstances existing at the time it shall be proposed.

3. The object of the convention shall be to compel the piratical States to perpetual peace, without price, and to guarantee that peace to each other.

4. The operations for obtaining that peace shall be constant cruises on their coast, with a naval force to be agreed on. It is not proposed that this force shall be so considerable as to be inconvenient to any party. It is believed that half a dozen frigates, with as many tenders, or xebecks, one half of which shall be on cruise while the other half is at rest, will suffice.

5. The force agreed to be necessary, shall be furnished by the parties in certain quotas now to be fixed: it being expected that each will be willing to contribute in such proportion as circumstances may render reasonable.

6. As miscarriages often proceed from the want of harmony among officers of different nations, the parties shall now consider and decide, whether it shall not be better to contribute their quotas in money, to be employed in fitting out and keeping on duty, a single fleet of the force agreed on.

7. The difficulties and delays too, which will attend the management of these operations, if conducted by the parties themselves separately, distant as their courts may be from one another, and incapable of meeting in consultation, suggest a question whether it will not be better for them to give full powers for that purpose to their ambassador or other minister resident at some one court of Europe, who shall form a committee or coun-

the plan was communicated to Congress, together with information that we would be expected to maintain a frigate towards its execution. Unfortunately, the supplies of the Treasury were so uncertain, that Congress were not willing to enter into an engagement which they might not be able to fulfil, and thus the plan failed.—Ed.]

cil for carrying this convention into effect; wherein the vote of each member shall be computed in proportion to the quota of his sovereign, and the majority, so computed, shall prevail in all questions within the view of this convention. The court of Versailles is proposed, on account of its neighborhood to the Mediterranean, and because all those powers are represented there who are likely to become parties to this convention.

8. To save to that council the embarrassment of personal solicitations for office, and to assure the parties that their contributions will be applied solely to the object for which they are destined, there shall be no establishment of officers for the said council, such as Commissaries, Secretaries, or of any other kind, with either salaries or perquisites, nor any other lucrative appointments, but such as whose functions are to be exercised on board of the said vessels.

9. Should war arise between any two of the parties to this convention, it shall not extend to this enterprise, nor interrupt it; but as to this they shall be reputed at peace.

10. When Algiers shall be reduced to peace, the other piratical States, if they refuse to discontinue their piracies, shall become the objects of this convention either successively or together, as shall seem best.

11. Where this convention would interfere with treaties actually existing between any of the parties and of the said States of Barbary, the treaty shall prevail, and such party shall be allowed to withdraw from the operations against that State.

X.

To the Editor of the Journal de Paris.

PARIS, August 29, 1787.

SIR:—I am a citizen of the United States of America, and have passed in those States almost the whole of my life. When young, I was passionately fond of reading books of history and travels. Since the commencement of the late revolution which

separated us from Great Britain, our country too, has been thought worthy to employ the pens of historians and travellers. I cannot paint to you, Sir, the agonies which these have cost me, in obliging me to renounce these favorite branches of reading, and in discovering to me at length, that my whole life has been employed in nourishing my mind with fables and falsehoods. For thus I reason. If the histories of d' Auberteuil and of Longchamps, and the travels of the Abbé Robin can be published in the face of the world, and can be read and believed by those who are cotemporary with the events they pretend to relate, how may we expect that future ages shall be better informed? Will those rise from their graves to bear witness to the truth, who would not, while living, lift their voices against falsehood? If cotemporary histories are thus false, what will future compilations be? And what are all those of preceding times? In your journal of this day, you announce and criticise a book under the title of "les ligues Acheenne, Suisse, & Hollandoise, et revolution des etats unis d'e l'Amerique par M. de Mayer." I was no part of the Achaean, Swiss or Dutch confederacies, and have therefore nothing to say against the facts related of them. And you cite only one fact from his account of the American revolution. It is in these words: "Monsieur Mayer assure qu'une seule voix, un seul homme, prononça l'independance des Etats unis. "Ce fut, dit il, John Dickinson, un des Deputés de la Pensilvanie au Congrés. la veille, il avoit vôté pour la soumission. l'egalité des suffrages avoit suspendu la resolution; s'il eut persisté, le Congrés ne deliberoit point, il fut foible: il ceda aux instances de ceux qui avoient plus d'energie, plus d' eloquence, et plus de lumieres; il donna sa voix: l'Amerique lui doit une reconnaissance eternelle; c'est Dickinson qui l'a affranchie." The modesty and candor of Mr. Dickinson himself, Sir, would disavow every word of this paragraph, except these—"il avoit voté pour la soumission." These are true, every other tittle false. I was on the spot, and can relate to you this transaction with precision. On the 7th of June, 1776, the delegates from Virginia moved, in obedience to instructions from their constituents, that Congress should declare the thirteen united colonies to be inde-

pendent of Great Britain, that a confederation should be formed to bind them together, and measures be taken for procuring the assistance of foreign powers. The House ordered a punctual attendance of all their members the next day at ten o'clock, and then resolved themselves into a committee of the whole and entered on the discussion. It appeared in the course of the debates that seven States: viz., New Hampshire, Massachusetts, Rhode Island, Connecticut, Virginia, North Carolina and Georgia, were decided for a separation; but that six others still hesitated, to wit: New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina. Congress, desirous of unanimity, and seeing that the public mind was advancing rapidly to it, referred the further discussion to the first of July, appointing, in the mean time, a committee to prepare a declaration of independence, a second to form articles for the confederation of the States, and a third to propose measures for obtaining foreign aid. On the 28th of June, the Declaration of Independence was reported to the House, and was laid on the table for the consideration of the members. On the first day of July, they resolved themselves into a committee of the whole, and resumed the consideration of the motion of June 7th. It was debated through the day, and at length was decided in the affirmative by the vote of nine States: viz., New Hampshire, Massachusetts, Rhode Island, Connecticut, *New Jersey*, *Maryland*, Virginia, North Carolina, and Georgia. Pennsylvania and South Carolina voted against it. Delaware, having but two members present, was divided. The delegates from New York declared they were for it, and their constituents also: but that the instructions against it which had been given them a twelvemonth before, were still unrepealed; that their convention was to meet in a few days, and they asked leave to suspend their vote till they could obtain a repeal of their instructions. Observe that all this was in a committee of the whole Congress, and that according to the mode of their proceedings, the resolution of that committee to declare themselves independent, was to be put to the same persons re-assuming their form as a Congress. It was now evening, the members exhausted by a debate of nine hours, during which all the powers of the

soul had been distended with the magnitude of the object—without refreshment, without a pause—and the delegates of South Carolina desired that the final decision might be put off to the next morning, that they might still weigh in their own minds their ultimate vote. It was put off, and in the morning of the second of July they joined the other nine States in voting for it. The members of the Pennsylvania delegation too, who had been absent the day before, came in and turned the vote of their State in favor of independence; and a third member of the State of Delaware, who, hearing of the division in the sentiments of his two colleagues, had travelled post to arrive in time, now came in and decided the vote of that State also for the resolution. Thus twelve States voted for it at the time of its passage, and the delegates of New York, the thirteenth State, received instructions within a few days to add theirs to the general vote: so that, instead of the "egalité des suffrages" spoken of by M. Mayer, there was not a dissenting voice. Congress proceeded immediately to consider the Declaration of Independence which had been reported by their committee on the 28th of June. The several paragraphs of that were debated for three days: viz., the second, third, and fourth of July. In the evening of the fourth they were finally closed, and the instrument approved by an unanimous vote and signed by every member, *except Mr. Dickinson.* Look into the Journal of Congress of that day, Sir, and you will see the instrument and the names of the signers, and that Mr. Dickinson's name is not among them. Then read again those words of your paper: "il (M. Mayer) assure qu'une seule voix, un seul homme, prononça l'independance des etats unis, ce fut John Dickinson.—l'Amerique lui doit une reconnoissance eternel; c'est Dickinson qui l'a affranchie." With my regrets, and my adieus to history, to travels, to Mayer, and to you, Sir, permit me to mingle assurances of the great respect with which I have the honor to be, Sir, your most obedient and most humble servant.

XI.

Memoranda taken on a journey from Paris into the southern parts of France, and northern of Italy, in the year 1787.

Champagne. March 3. *Sens* to *Vermanton*. The face of the country is in large hills, not too steep for the plough, somewhat resembling the Elk hill, and Beaver-dam hills of Virginia. The soil is generally a rich mulatto loam, with a mixture of coarse sand and some loose stone. The plains of the Yonne are of the same color. The plains are in corn, the hills in vineyard, but the wine not good. There are a few apple trees, but none of any other kind, and no inclosures. No cattle, sheep, or swine; fine mules.

Few châteaux; no farm-houses, all the people being gathered in villages. Are they thus collected by that dogma of their religion, which makes them believe, that to keep the Creator in good humor with his own works, they must mumble a mass every day? Certain it is, that they are less happy and less virtuous in villages, than they would be insulated with their families on the grounds they cultivate. The people are illy clothed. Perhaps they have put on their worst clothes at this moment, as it is raining. But I observe women and children carrying heavy burthens, and laboring with the hoe. This is an unequivocal indication of extreme poverty. Men, in a civilized country, never expose their wives and children to labor above their force and sex, as long as their own labor can protect them from it. I see few beggars. Probably this is the effect of a police.

Burgundy. March 4. *Lucy le bois. Cussy les forges. Rouvray. Maison-neuve. Vitteaux. La Chaloure. Pont de Panis. Dijon.* The hills are higher and more abrupt. The soil, a good red loam and sand, mixed with more or less grit, small stone, and sometimes rock. All in corn. Some forest wood here and there, broom, whins and holly, and a few inclosures of quick hedge. Now and then a flock of sheep.

The people are well clothed, but it is Sunday. They have the appearance of being well fed. The Château de Sevigny,

near Cussy les forges, is a charming situation. Between Maisonneuve and Vitteaux the road leads through an avenue of trees, eight American miles long, in a right line. It is impossible to paint the ennui of this avenue. On the summits of the hills which border the valley in which Vitteaux is, there is a parapet of rock, twenty, thirty, or forty feet perpendicular, which crowns the hills. The tops are nearly level, and appear to be covered with earth. Very singular. Great masses of rock in the hills between la Chaleure and Pont de Panis, and a conical hill in the approach to the last place.

Dijon. The tavern price of a bottle of the best wine (*e. g.* of Vaune) is four livres. The best round potatoes here I ever saw. They have begun a canal thirty feet wide, which is to lead into the Saone at ———. It is fed by springs. They are not allowed to take any water out of the riviere d'Ouche, which runs through this place, on account of the mills on that river. They talk of making a canal to the Seine, the nearest navigable part of which at present is fifteen leagues from hence. They have very light wagons here for the transportation of their wine. They are long and narrow; the fore wheels as high as the hind. Two pieces of wine are drawn by one horse in one of these wagons. The road in this part of the country is divided into portions of forty or fifty feet by stones, numbered, which mark the task of the laborers.

March 7 and 8. From *la Baraque* to *Chagny.* On the left are plains which extend to the Saone, on the right the ridge of mountains called the Cote. The plains are of a reddish-brown, rich loam, mixed with much small stone. The Cote has for its basis a solid rock, on which is about a foot of soil and small stone, in equal quantities, the soil red and of middling quality. The plains are in corn; the Cote in vines. The former have no inclosures, the latter is in small ones of dry stone wall. There is a good deal of forest. Some small herds of small cattle and sheep. Fine mules, which come from Provence, and cost twenty louis. They break them at two years old, and they last to thirty.

The corn lands here rent for about fifteen livres the arpent.

They are now planting, pruning, and sticking their vines. When a new vineyard is made, they plant the vines in gutters about four feet apart. As the vines advance, they lay them down. They put out new shoots, and fill all the intermediate space, till all trace of order is lost. They have ultimately about one foot square to each vine. They begin to yield good profit at five or six years old, and last one hundred, or one hundred and fifty years. A vigneron at Voulenay carried me into his vineyard, which was of about ten arpents. He told me that some years it produced him sixty pieces of wine, and some, not more than three pieces. The latter is the most advantageous produce, because the wine is better in quality, and higher in price in proportion as less is made, and the expenses at the same time diminish in the same proportion. Whereas, when much is made, the expenses are increased, while the price and quality become less. In very plentiful years, they often give one half the wine for casks to contain the other half. The cask for two hundred and fifty bottles, costs six livres in scarce years, and ten in plentiful. The Feuillette is of one hundred and twenty-five bottles, the Piece of two hundred and fifty, and the Queue or Botte, of five hundred. An arpent rents at from twenty to sixty livres. A farmer of ten arpents has about three laborers engaged by the year. He pays four louis to a man, and half as much to a woman, and feeds them. He kills one hog, and salts it, which is all the meat used in the family during the year. Their ordinary food is bread and vegetables. At Pommard and Voulenay, I observed them eating good wheat bread; at Meursault, rye. I asked the reason of this difference. They told me that the white wines fail in quality much oftener than the red, and remain on hand. The farmer, therefore, cannot afford to feed his laborers so well. At Meursault, only white wines are made, because there is too much stone for the red. On such slight circumstances depends the condition of man! The wines which have given such celebrity to Burgundy, grow only on the Cote, an extent of about five leagues long, and half a league wide. They begin at Chambertin, and go through Vougeau, Romanie, Veaune, Nuys, Beaune, Pommard, Voulenay, Meursault, and end at Monrachat.

Those of the two last are white, the others red. Chambertin, Vougeau and Neaune are strongest, and will bear transportation and keeping. They sell, therefore, on the spot for twelve hundred livres the queue, which is forty-eight sous the bottle. Voulenay is the best of the other reds, equal in flavor to Chambertin, &c., but being lighter, will not keep, and therefore sells for not more than three hundred livres the queue, which is twelve sous the bottle. It ripens sooner than they do, and consequently is better for those who wish to broach at a year old. In like manner of the white wines, and for the same reason, Monrachet sells for twelve hundred livres the queue (forty-eight sous the bottle), and Meursault of the best quality, viz., the Goutte d'or, at only one hundred and fifty livres (six sous the bottle). It is remarkable, that the best of each kind, that is, of the red and white, is made at the extremities of the line, to wit, at Chambertin and Monrachet. It is pretended that the adjoining vineyards produce the same qualities, but that belonging to obscure individuals, they have not obtained a name, and therefore sell as other wines. The aspect of the Cote is a little south of east. The western side is also covered with vines, and is apparently of the same soil, yet the wines are of the coarsest kinds. Such, too, are those which are produced in the plains; but there the soil is richer and less strong. Vougeau is the property of the monks of Citeaux, and produces about two hundred pieces. Monrachet contains about fifty arpents, and produces, one year with another, about one hundred and twenty pieces. It belongs to two proprietors only, Monsieur de Clarmont, who leases to some wine merchants, and the Marquis de Sarsnet, of Dijon, whose part is farmed to a Monsieur de la Tour, whose family for many generations have had the farm. The best wines are carried to Paris by land. The transportation costs thirty-six livres the piece. The more indifferent go by water. Bottles cost four and a half sous each.

March 9. *Chalons. Sennecy. Tournus. St. Albin. Macon.* On the left are the fine plains of the Saone; on the right, high lands, rather waving than hilly, sometimes sloping gently to the plains, sometimes dropping down in precipices, and occa-

sionally broken into beautiful vallies by the streams which run into the Saone. The plains are a dark rich loam, in pasture and corn; the heights more or less red or reddish, always gritty, of middling quality only, their sides in vines, and their summits in corn. The vineyards are inclosed with dry stone walls, and there are some quick hedges in the corn grounds. The cattle are few and indifferent. There are some good oxen, however. They draw by the head. Few sheep, and small. A good deal of wood lands.

I passed three times the canal called le Charollois, which they are opening from Chalons on the Saone to Dijon on the Loire. It passes near Chagny, and will be twenty-three leagues long. They have worked on it three years, and will finish it in four more. It will re-animate the languishing commerce of Champagne and Burgundy, by furnishing a water transportation for their wines to Nantes, which also will receive new consequence by becoming the emporium of that commerce. At some distance on the right are high mountains, which probably form the separation between the waters of the Saone and Loire. Met a malefactor in the hands of one of the Marechausée; perhaps a dove in the talons of the hawk. The people begin now to be in separate establishments, and not in villages. Houses are mostly covered with tile.

Beaujolois. *Maison blanche. St. George. Château de Laye-Epinaye.* The face of the country is like that from Chalons to Macon. The plains are a dark rich loam, the hills a red loam of middling quality, mixed generally with more or less coarse sand and grit, and a great deal of small stone. Very little forest. The vineyards are mostly inclosed with dry stone wall. A few small cattle and sheep. Here, as in Burgundy, the cattle are all white.

This is the richest country I ever beheld. It is about ten or twelve leagues in length, and three, four, or five in breadth; at least, that part of it which is under the eye of the traveller. It extends from the top of a ridge of mountains, running parallel with the Saone, and sloping down to the plains of that river, scarcely any where too steep for the plough. The whole is

thick set with farm-houses, chateaux, and the Bastides of the inhabitants of Lyons. The people live separately, and not in villages. The hill sides are in vine and corn; the plains in corn and pasture. The lands are farmed either for money, or on half-stocks. The rents of the corn lands, farmed for money, are about ten or twelve livres the arpent. A farmer takes, perhaps, about one hundred and fifty arpents, for three, six, or nine years. The first year they are in corn; the second in other small grain, with which he sows red clover. The third is for the clover. The spontaneous pasturage is of green sward, which they call fromenteau. When lands are rented on half-stocks, the cattle, sheep, &c., are furnished by the landlord. They are valued, and must be left of equal value. The increase of these, as well as the produce of the farm, is divided equally. These leases are only from year to year. They have a method of mixing beautifully the culture of vines, trees, and corn. Rows of fruit trees are planted about twenty feet apart. Between the trees, in the row, they plant vines four feet apart, and espalier them. The intervals are sowed alternately in corn, so as to be one year in corn, the next in pasture, the third in corn, the fourth in pasture, &c. One hundred toises of vines in length, yield generally about four pieces of wine. In Dauphiné, I am told, they plant vines only at the roots of the trees, and let them cover the whole trees. But this spoils both the wine and the fruit. Their wine when distilled, yields but one-third its quantity in brandy. The wages of a laboring man here, are five louis; of a woman, one half. The women do not work with the hoe; they only weed the vines, the corn, &c., and spin. They speak a Patois very difficult to understand. I passed some time at the Chateau de Laye-Epinaye. Monsieur de Laye has a seignory of about fifteen thousand arpents, in pasture, corn, vines, and wood. He has over this, as is usual, a certain jurisdiction, both criminal and civil. But this extends only to the first crude examination, which is before his judges. The subject is referred for final examination and decision, to the regular judicatures of the country. The Seigneur is keeper of the peace on his domains. He is therefore subject to the expenses of maintaining it. A crimi-

nal prosecuted to sentence and execution, costs M. de Laye about five thousand livres. This is so burthensome to the Seigneurs, that they are slack in criminal prosecutions. A good effect from a bad cause. Through all Champagne, Burgundy, and the Beaujolois, the husbandry seems good, except that they manure too little. This proceeds from the shortness of their leases. The people of Burgundy and Beaujolois are well clothed, and have the appearance of being well fed. But they experience all the oppressions which result from the nature of the general government, and from that of their particular tenures, and of the seignorial government to which they are subject. What a cruel reflection, that a rich country cannot long be a free one. M. de Laye has a Diana and Endymion, a very superior morsel of sculpture by Michael Angelo Slodtz, done in 1740. The wild gooseberry is in leaf; the wild pear and sweet briar in bud.

Lyons. There are some feeble remains here, of an amphitheatre of two hundred feet diameter, and of an aqueduct in brick. The Pont d'Ainay has nine arches of forty feet from centre to centre. The piers are of six feet. The almond is in bloom.

Dauphine. From *St. Fond* to *Mornas.* March 15, 16, 17 18. The Rhone makes extensive plains, which lie chiefly on the eastern side, and are often in two stages. Those of Montelimart are three or four miles wide, and rather good. Sometimes, as in the neighborhood of Vienne, the hills come in precipices to the river, resembling then very much our Susquehanna and its hills, except that the Susquehanna is ten times as wide as the Rhone. The highlands are often very level. The soil, both of hill and plain, where there is soil, is generally tinged, more or less, with red. The hills are sometimes mere masses of rock, sometimes a mixture of loose stone and earth. The plains are always stony, and, as often as otherwise, covered perfectly with a coat of round stones, of the size of the fist, so as to resemble the remains of inundations, from which all the soil has been carried away. Sometimes they are middling good, sometimes barren. In the neighborhood of Lyons, there is more corn than wine. Towards Tains, more wine than corn. From

thence, the plains, where best, are in corn, clover, almonds, mulberries, walnuts; where there is still some earth, they are in corn, almonds, and oaks. The hills are in vines. There is a good deal of forest-wood near Lyons, but not much afterwards. Scarcely any inclosures. There are a few small sheep before we reach Tains; there the number increases.

Nature never formed a country of more savage aspect, than that on both sides the Rhone. A huge torrent, rushes like an arrow between high precipices, often of massive rock, at other times of loose stone, with but little earth. Yet has the hand of man subdued this savage scene, by planting corn where there is a little fertility, trees where there is still less, and vines where there is none. On the whole, it assumes a romantic, picturesque, and pleasing air. The hills on the opposite side of the river, being high, steep, and laid up in terraces, are of a singular appearance. Where the hills are quite in waste, they are covered with broom, whins, box, and some clusters of small pines. The high mountains of Dauphiné and Languedoc are now covered with snow. The almond is in general bloom, and the willow putting out its leaf. There were formerly olives at Pains; but a great cold, some years ago, killed them, and they have not been replanted. I am told at Montelimart, that an almond tree yields about three livres profit a year. Supposing them three toises apart, there will be one hundred to the arpent, which gives three hundred livres a year, besides the corn growing on the same ground. A league below Vienne, on the opposite side of the river, is Cote Rotie. It is a string of broken hills, extending a league on the river, from the village of Ampuys to the town of Condrieux. The soil is white, tinged a little, sometimes, with yellow, sometimes with red, stony, poor, and laid up in terraces. Those parts of the hills only, which look to the sun at mid-day, or the earlier hours of the afternoon, produce wines of the first quality. Seven hundred vines, three feet apart, yield a feuillette, which is about two and a half pieces, to the arpent. The best red wine is produced at the upper end, in the neighborhood of Ampuys; the best white, next to Condrieux. They sell of the first quality and last vintage, at one

hundred and fifty livres the piece, equal to twelve sous the bottle. Transportation to Paris is sixty livres, and the bottle four sous; so it may be delivered at Paris in bottles, at twenty sous. When old, it costs ten or eleven louis the piece. There is a quality which keeps well, bears transportation, and cannot be drunk under four years. Another must be drunk at a year old. They are equal in flavor and price.

The wine called Hermitage is made on the hills impending over the village of Tains; on one of which is the hermitage, which gives name to the hills for about two miles, and to the wine made on them. There are but three of those hills which produce wine of the first quality, and of these, the middle regions only. They are about three hundred feet perpendicular height, three-quarters of a mile in length, and have a southern aspect. The soil is scarcely tinged red, consists of small rotten stone, and is, where the best wine is made, without any perceptible mixture of earth. It is in sloping terraces. They use a little dung. An homme de vignes, which consists of seven hundred plants, three feet apart, yields generally about three quarters of a piece, which is nearly four pieces to the arpent. When new, the piece is sold at about two hundred and twenty-five livres; when old, at three hundred. It cannot be drunk under four years, and improves fastest in a hot situation. There is so little white made in proportion to the red, that it is difficult to buy it separate. They make the white sell the red. If bought separately, it is from fifteen to sixteen louis the piece, new, and three livres the bottle, old. To give quality to the red, they mix one eighth of white grapes. Portage to Paris is seventy-two livres the piece, weighing six hundred pounds. There are but about one thousand pieces of both red and white, of the first quality, made annually. Vineyards are never rented here, nor are laborers in the vineyard hired by the year. They leave buds proportioned to the strength of the vine; sometimes as much as fifteen inches. The last hermit died in 1751.

In the neighborhood of Montelimart, and below that, they plant vines in rows, six, eight, or ten feet apart, and two feet asunder in the row, filling the intervals with corn. Sometimes

the vines are in double rows, two feet apart. I saw single asses in ploughs proportioned to their strength. There are few chateaux in this province. The people, too, are mostly gathered into villages. There are, however, some scattering farm houses. These are made either of mud, or of round stone and mud. They make inclosures also, in both those ways. Day laborers receive sixteen or eighteen sous the day, and feed themselves. Those by the year receive, men three louis, women half that, and are fed. They rarely eat meat; a single hog salted, being the year's stock for a family. But they have plenty of cheese, eggs, potatoes and other vegetables, and walnut oil with their salad. It is a trade here, to gather dung along the road for their vines. This proves they have few cattle. I have seen neither hares nor partridges since I left Paris, nor wild fowl on any of the rivers. The roads from Lyons to St. Rambert, are neither paved nor gravelled. After that, they are coated with broken flint. The ferry boats on the Rhone and the Isere, are moved by the stream, and very rapidly. On each side of the river is a moveable stage, one end of which is on an axle and two wheels, which, according to the tide, can be advanced or withdrawn, so as to apply to the gunwale of the boat. The Prætorian palace at Vienne is forty-four feet wide, of the Corinthian order, four columns in front, and four in flank. It was begun in the year 400, and finished by Charlemagne. The Sepulchral pyramid, a little way out of the town, has an order for its basement, the pedestal of which, from point to point of its cap, is twenty-four feet one inch. At each angle, is a column, engaged one fourth in the wall. The circumference of the three fourths disengaged, is four feet four inches; consequently, the diameter is twenty-three inches. The base of the column indicates it to be Ionic, but the capitals are not formed. The cornice, too, is a bastard Ionic, without modillions or dentils. Between the columns, on each side, is an arch of eight feet four inches, opening with a pilaster on each side of it. On the top of the basement is a zocle, in the plane of the frieze below. On that is the pyramid, its base in the plane of the col-

larins of the pilaster below. The pyramid is a little truncated on its top. This monument is inedited.

March 18th. *Principality of Orange.* The plains on the Rhone here are two or three leagues wide, reddish, good, in corn, clover, almonds, olives. No forests. Here begins the country of olives, there being very few till we enter this principality. They are the only tree which I see planted among vines. Thyme grows wild here on the hills. Asses, very small, sell here for two or three louis. The high hills in Dauphiné are covered with snow. The remains of the Roman aqueduct are of brick: a fine piece of Mosaic, still on its bed, forming the floor of a cellar. Twenty feet of it still visible. They are taking down the circular wall of the amphitheatre to pave a road.

March 19th to 23d. Languedoc. *Pont St. Esprit. Bagnols. Connault. Valignieres. Remoulins. St. Gervasy. Nismes. Pont d'Arles.* To Remoulins, there is a mixture of hill and dale. Thence to Nismes, hills on the right, on the left, plains extending to the Rhone and the sea. The hills are rocky. Where there is soil, it is reddish and poor. The plains, generally reddish and good, but stony. When you approach the Rhone, going to Arles, the soil becomes a dark gray loam with some sand, and very good. The culture is corn, clover, St. foin, olives, vines, mulberries, willow, and some almonds. There is no forest. The hills are inclosed in dry stone wall. Many sheep.

From the summit of the first hill, after leaving Pont St. Esprit, there is a beautiful view of the bridge at about two miles distance, and a fine landscape of the country both ways. From thence, an excellent road, judiciously conducted, through very romantic scenes. In one part, descending the face of a hill, it is laid out in serpentine, and not zigzag, to ease the descent. In others, it passes through a winding meadow, from fifty to one hundred yards, walled, as it were, on both sides, by hills of rock; and at length issues into plain country. The waste hills are covered with thyme, box, and chene-vert. Where the body of the mountains has a surface of soil, the summit has sometimes a crown of rock, as observed in Champagne. At Nismes, the earth

is full of lime-stone. The horses are shorn. They are now pruning the olive. A very good tree produces sixty pounds of olives, which yield fifteen pounds of oil: the best quality sells at twelve sous the pound, retail, and ten sous, wholesale. The high hills of Languedoc still covered with snow. The horse chestnut and mulberry are leafing; apple trees and peas blossoming. The first butterfly I have seen. After the vernal equinox, they are often six or eight months without rain. Many separate farm houses, numbers of people in rags, and abundance of beggars. The mine of wheat, weighing thirty pounds, costs four livres and ten sous. Wheat bread, three sous the pound. Vin ordinaire, good, and of a strong body, two or three sous the bottle. Oranges, one sous a piece. They are nearly finishing at Nismes, a great mill, worked by a steam engine, which pumps water from a lower into an upper cistern, from whence two overshot wheels are supplied, each of which turns two pair of stones. The upper cistern being once filled with water, it passes through the wheels into the lower one, from whence it is returned to the upper by the pumps. A stream of water of one quarter or one half inch diameter, supplies the waste of evaporation, absorption, &c. This is furnished from a well by a horse. The arches of the Pont St. Esprit are of eighty-eight feet. Wild figs, very flourishing, grow out of the joints of the Pont du Gard. The fountain of Nismes is so deep, that a stone was thirteen seconds, descending from the surface to the bottom.

March 24th. From *Nismes* to *Arles*. The plains extending from Nismes to the Rhone, in the direction of Arles, are broken in one place by a skirt of low hills. They are red and stony at first, but as you approach the Rhone, they are of a dark gray mould, with a little sand, and very good. They are in corn and clover, vines, olives, almonds, mulberries, and willow. There are some sheep, no wood, no inclosures.

The high hills of Languedoc are covered with snow. At an ancient church, in the suburbs of Arles, are some hundreds of ancient stone coffins, along the road side. The ground is thence called les champs elysées. In a vault in a church, are some curiously wrought, and in a back yard are many ancient statues,

inscriptions, &c. Within the town, are a part of two Corinthian columns, and of the pediment with which they were crowned, very rich, having belonged to the ancient capitol of the place. But the principal monument here, is an amphitheatre, the external portico of which is tolerably complete. How many porticoes there were, cannot be seen: but at one of the principal gates, there are still five, measuring, from out to in, seventy-eight feet ten inches, the vault diminishing inwards. There are sixty-four arches, each of which is, from centre to centre, twenty feet six inches. Of course, the diameter is of four hundred and thirty-eight feet; or of four hundred and fifty feet, if we suppose the four principal arches a little larger than the rest. The ground-floor is supported on innumerable vaults. The first story, externally, has a tall pedestal, like a pilaster, between every two arches: the upper story, a column, the base of which would indicate it Corinthian. Every column is truncated as low as the impost of the arch, but the arches are all entire. The whole of the upper entablature is gone, and of the Attic, if there was one. Not a single seat of the internal is visible. The whole of the inside, and nearly the whole of the outside, is masked by buildings. It is supposed there are one thousand inhabitants within the amphitheatre. The walls are more entire and firm than those of the amphitheatre at Nismes. I suspect its plan and distribution to have been very different from that.

Terrasson. The plains of the Rhone from Arles to this place, are a league or two wide: the mould is of a dark gray, good, in corn and lucerne. Neither wood, nor inclosures. Many sheep.

St. Remis. From Terasson to St. Remis, is a plain of a league or two wide, bordered by broken hills of massive rock. It is gray and stony, mostly in olives. Some almonds, mulberries, willows, vines, corn, and lucerne. Many sheep. No forest, nor inclosures.

A laboring man's wages here, are one hundred and fifty livres, a woman's half, and fed. Two hundred and eighty pounds of wheat sell for forty-two livres. They make no butter here. It costs, when brought, fifteen sous the pound. Oil is ten sous the pound. Tolerably good olive trees yield, one with another,

about twenty pounds of oil. An olive tree must be twenty years old before it has paid its own expenses. It lasts forever. In 1765, it was so cold, that the Rhone was frozen over at Arles for two months. In 1767, there was a cold spell of a week, which killed all the olive trees. From being fine weather, in one hour there was ice hard enough to bear a horse. It killed people on the road. The old roots of the olive trees put out again. Olive grounds sell for twenty-four livres a tree, and lease at twenty-four sous the tree. The trees are fifteen pieds apart. But lucerne is a more profitable culture. An arpent yields one hundred quintals of hay a year, worth three livres the quintal. It is cut four or five times a year. It is sowed in the broadcast, and lasts five or six years. An arpent of ground for corn, rents at from thirty to thirty-six livres. Their leases are for six or nine years. They plant willow for fire-wood, and for hoops to their casks. It seldom rains here in summer. There are some chateaux, many separate farm-houses, good, and ornamented in the small way, so as to show that the tenant's whole time is not occupied in procuring physical necessaries.

March 25th. *Orgon. Pontroyal. St. Cannat.* From Orgon to Pontroyal, after quitting the plains of the Rhone, the country seems still to be a plain, cut into compartments by chains of mountains of massive rock, running through it in various directions. From Pontroyal to St. Cannat, the land lies rather in basins. The soil is very various, gray and clay, gray and stony, red and stony; sometimes good, sometimes middling, often barren. We find some golden willows. Towards Pontroyal, the hills begin to be in vines, and afterwards, in some pasture of green sward and clover. About Orgon are some inclosures of quick set, others of conical yews planted close. Towards St. Cannat, they begin to be of stone.

The high mountains are covered with snow. Some separate farm-houses of mud. Near Pontroyal is a canal for watering the country; one branch goes to Terrasson, the other to Arles.

March 25th, 26th, 27th, 28th. *Aix.* The country is waving, in vines, pasture of green sward and clover, much inclosed with stone, and abounding with sheep.

On approaching Aix, the valley which opens from thence towards the mouth of the Rhone and the sea, is rich and beautiful; a perfect grove of olive trees, mixed among which, are corn, lucerne, and vines. The waste grounds throw out thyme and lavender. Wheat bread is three sous the pound. Cow's milk sixteen sous the quart, sheep's milk six sous, butter of sheep's milk twenty sous the pound. Oil, of the best quality, is twelve sous the pound, and sixteen sous if it be virgin oil. This is what runs from the olive when put into the press, spontaneously; afterwards they are forced by the press and by hot water. Dung costs ten sous the one hundred pounds. Their fire-wood is chene-vert and willow. The latter is lopped every three years. An ass sells for from one to three louis; the best mules for thirty louis. The best asses will carry two hundred pounds; the best horses three hundred pounds; the best mules six hundred pounds. The temperature of the mineral waters of Aix, is 90° of Farenheit's thermometer, at the spout. A mule eats half as much as a horse. The allowance to an ass for the day, is a handful of bran mixed with straw. The price of mutton and beef, about six and a half sous the pound. The beef comes from Auvergne, and is poor and bad. The mutton is small, but of excellent flavor. The wages of a laboring man are one hundred and fifty livres the year, a woman's sixty to sixty-six livres, and fed Their bread is half wheat, half rye, made once in three or four weeks, to prevent too great a consumption. In the morning, they eat bread with an anchovy, or an onion. Their dinner in the middle of the day, is bread, soup, and vegetables. Their supper the same. With their vegetables, they have always oil and vinegar. The oil costs about eight sous the pound. They drink what is called piquette. This is made after the grapes are pressed, by pouring hot water on the pumice. On Sunday they have meat and wine. Their wood for building comes mostly from the Alps, down the Durance and Rhone. A stick of pine, fifty feet long, girting sixty feet and three inches at one end, and three feet three inches at the other, costs, delivered here, from fifty-four to sixty livres. Sixty pounds of wheat cost seven livres. One of their little asses will travel with his burthen

about five or six leagues a day, and day by day; a mule from six to eight leagues.*

March 29. *Marseilles.* The country is hilly, intersected by chains of hills and mountains of massive rock. The soil is reddish, stony, and indifferent where best. Wherever there is any soil, it is covered with olives. Among these are corn, vines, some lucerne, mulberry, some almonds and willow. Neither inclosures, nor forest. A very few sheep.

On the road I saw one of those little whirlwinds which we have in Virginia, also some gullied hill sides. The people are in separate establishments. Ten morning observations of the thermometer, from the 20th to the 31st of March inclusive, made at Nismes, St. Renny, Aix and Marseilles, give me an average of 52 1-2 and 46° and 61°, for the greatest and least morning heats. Nine afternoon observations, yield an average of 62 2-3° and 57° and 66°, the greatest and least. The longest day here, from sunrise to sunset, is fifteen hours and fourteen minutes; the shortest is eight hours and forty-six minutes; the latitude being———. There are no tides in the Mediterranean. It is observed to me, that the olive tree grows no where more than thirty leagues distant from that sea. I suppose, however, that both Spain and Portugal furnish proofs to the contrary, and doubt its truth as to Asia, Africa, and America. They are six or eight months at a time, here, without rain. The most delicate figs known in Europe, are those growing about this place, called figues Marcelloises, or les veritables Marcelloises, to distinguish them from others of inferior quality growing here. These keep any length of time. All others exude a sugar in the spring of the year, and become sour. The only process for preserving them, is drying them in the sun, without putting any thing to them whatever. They sell at fifteen sous the pound, while there are others as cheap as five sous the pound. I meet here a small dried grape from Smyrna without a seed. There are few of the plants growing in this neighborhood. The best grape for drying known here, is called des Panses. They are very large, with a thick skin

* It is twenty American miles from Aix to Marseilles, and they call it five leagues. Their league, then, is of four American miles.

and much juice. They are best against a wall of southern aspect, as their abundance of juice requires a great deal of sun to dry it. Pretty good fig trees are about the size of the apricot tree, and yield about twenty pounds of figs when dry, each. But the largest will yield the value of a louis. They are sometimes fifteen inches in diameter. It is said the Marseilles fig degenerates when transported into any other part of the country. The leaves of the mulberry tree will sell for about three livres, the purchaser gathering them. The caper is a creeping plant. It is killed to the roots every winter. In the spring it puts out branches, which creep to the distance of three feet from the centre. The fruit forms on the stem, as that extends itself, and must be gathered every day as it forms. This is the work of women. The pistache grows in this neighborhood also, but not very good. They eat them in their milky state. Monsieur de Bergasse has a wine cellar two hundred and forty pieds long, in which are one hundred and twenty tons, of from fifty to one hundred pieces each. These tons are twelve pieds diameter; the staves four inches thick, the heading two and a half pouces thick. The temperature of his cellar is of 9 1-2 of Reaumur. The best method of packing wine, when bottled, is to lay the bottles on their side, and cover them with sand. The 2nd of April, the young figs are formed; the 4th we have Windsor beans. They have had asparagus ever since the middle of March. The 5th, I see strawberries and the Guelder rose in blossom. To preserve the raisin, it is first dipped into ley and then dried in the sun. The aloe grows in the open ground. I measured a mule, not the largest, five feet and two inches high. Marseilles is in an amphitheatre, at the mouth of the Vaune, surrounded by high mountains of naked rock, distant two or three leagues. The country within that amphitheatre is a mixture of small hills, vallies and plains. The latter are naturally rich. The hills and vallies are forced into production. Looking from the Chateau de Notre dame de la garde, it would seem as if there was a Bastide for every arpent. The plain land sells for one hundred louis the caterelle, which is less than an acre. The ground of the arsenal in Marseilles, sold for from fifteen to forty louis the square

verge, being nearly the square yard English. In the fields open to the sea, they are obliged to plant rows of canes, every here and there, to break the force of the wind. Saw at the Chateau Borelli, pumps worked by the wind.

April 6. From *Marseilles* to *Aubagne.* A valley on the Vaune, bordered on each side by high mountains of massive rock, on which are only some small pines. The interjacent valley is of small hills, vallies and plains, reddish, gravelly, and originally poor, but fertilized by art, and covered with corn, vines, olives, figs, almonds, mulberries, lucerne and clover. The river is twelve or fifteen feet wide, one or two feet deep and rapid.

From *Aubagne* to *Cuges*, *Beausset*, *Toulon.* The road quitting the Vaune and its wealthy valley, a little after Aubagne, enters those mountains of rock, and is engaged with them about a dozen miles. Then it passes six or eight miles through a country still very hilly and stony, but laid up in terraces, covered with olives, vines and corn. It then follows for two or three miles, a hollow between two of those high mountains, which has been found or made by a small stream. The mountains then, reclining a little from their perpendicular, and presenting a coat of soil, reddish and tolerably good, have given place to the little village of Olioules, in the gardens of which are oranges in the open ground. It continues hilly till we enter the plain of Toulon. On different parts of this road there are figs in the open fields. At Cuges, is a plain of about three-forths of a mile in diameter, surrounded by high mountains of rock. In this, the caper is principally cultivated. The soil is mulatto, gravelly, and of middling quality, or rather indifferent. The plants are set in quincunx, about eight feet apart. They have been covered during winter by a hill of earth a foot high. They are now inclosing, pruning and ploughing them.

Toulon. From Olioules to Toulon, the figs are in the open fields. Some of them have stems of fifteen inches diameter. They generally fork near the ground, but sometimes have a single stem of five feet long. They are as large as apricot trees. The olive trees of this day's journey are about the size of large apple trees. The people are in separate establishments. Toulon is in

a valley at the mouth of the Goutier, a little river of the size of the Vaune; surrounded by high mountains of naked rock, leaving some space between them and the sea. This space is hilly, reddish, gravelly, and of middling quality, in olives, vines, corn, almonds, figs and capers. The capers are planted eight feet apart. A bush yields, one year with another, two pounds, worth twelve sous the pound. Every plant then, yields twenty-four sous, equal to one shilling sterling. An acre containing six hundred and seventy-six plants, would yield thirty-three pounds sixteen shillings sterling. The fruit is gathered by women, who can gather about twelve pounds a day. They begin to gather about the last of June, and end about the middle of October. Each plant must be picked every day. These plants grow equally well in the best or worst soil, or even in the walls where there is no soil. They will last the life of a man or longer. The heat is so great at Toulon in summer, as to occasion very great cracks in the earth. Where the caper is in a soil that will admit it, they plough it. They have peas here through the winter, sheltering them occasionally; and they have had them ever since the 25th of March without shelter.

April 6. *Hieres.* This is a plain of two or three miles diameter, bounded by the sea on one side, and mountains of rock on the other. The soil is reddish, gravelly, tolerably good and well watered. It is in olives, mulberries, vines, figs, corn, and some flax. There are also some cherry trees. From Hieres to the sea, which is two or three miles, is a grove of orange trees, olives, and mulberries. The largest orange tree is of two feet diameter one way, and one foot the other, (for the section of all the larger ones would be an oval, not a round,) and about twenty feet high. Such a tree will yield about six thousand oranges a year. The garden of M. Fille, has fifteen thousand six hundred orange trees. Some years they yield forty thousand livres, some only ten thousand; but generally about twenty-five thousand. The trees are from eight to ten feet apart. They are blossoming and bearing all the year, flowers and fruit in every stage, at the same time. But the best fruit is that which is gathered in April and May. Hieres is a village of about five thousand inhabitants, at the foot

of a mountain which covers it from the north, and from which extends a plain of two or three miles to the sea shore. It has no port. Here are palm trees twenty or thirty feet high, but they bear no fruit. There is also a botanical garden kept by the King. Considerable salt ponds here. Hieres is six miles from the public road. It is built on a narrow spur of the mountain. The streets in every direction are steep, in steps of stairs, and about eight feet wide. No carriage of any kind can enter it. The wealthiest inhabitants use *chaises a porteurs.* But there are few wealthy, the bulk of the inhabitants being laborers of the earth. At a league's distance in the sea, is an island on which is the Chateau de Geans, belonging to the Marquis de Pontoives; there is a cause-way leading to it. The cold of the last November killed the leaves of a great number of the orange trees, and some of the trees themselves.

From Hieres to *Cuers*, *Pignans*, *Luc*, is mostly a plain, with mountains on each hand, at a mile or two distance. The soil is generally reddish, and the latter part very red and good. The growth is, olives, figs, vines, mulberries, corn, clover, and lucerne. The olive trees are from three to four feet in diameter. There are hedges of pomegranates, sweetbriar, and broom. A great deal of thyme growing wild. There are some inclosures of stone; some sheep and goats.

April 9th. From Luc to *Vidauban*, *Muy*, *Frejus*, the road leads through vallies, and crosses occasionally the mountains which separate them. The vallies are tolerably good, always red and stony, gravelly or gritty. Their produce as before. The mountains are barren.

Lesterelle, *Napoule.* Eighteen miles of ascent and descent, of a very high mountain. Its growth, where capable of any, two-leaved pine, very small, and some chene vert.

Antibes, *Nice.* From Napoule, the road is generally near the sea, passing over little hills or strings of vallies, the soil stony, and much below mediocrity in its quality. Here and there, is a good plain.

There is snow on the high mountains. The first frogs I have heard, are of this day (the 9th.) At Antibes are oranges in the

open ground, but in small inclosures; palm trees also. From thence to the Var, are the largest fig trees and olive trees I have seen. The fig trees are eighteen inches in diameter, and six feet, stem; the olives, sometimes six feet in diameter, and as large heads as the largest low ground apple trees. This tree was but a shrub where I first fell in with it, and has become larger and larger to this place. The people are mostly in villages. The several provinces, and even cantons are distinguished by the form of the women's hats, so that one may know of what canton a woman is, by her hat.

Nice. The pine bur is used here for kindling fires. The people are in separate establishments. With respect to the orange, there seems to be no climate on this side of the Alps, sufficiently mild in itself to preserve it without shelter. At Olioules, they are between two high mountains; at Hieres, covered on the north by a very high mountain; at Antibes and Nice, covered by mountains, and also within small high enclosures. Quere. To trace the true line from east to west, which forms the northern and natural limit of that fruit? Saw an elder tree (sambucus) near Nice, fifteen inches in diameter, and eight feet stem. The wine made in this neighborhood is good, though not of the first quality. There are one thousand mules, loaded with merchandise, which pass every week between Nice and Turin, counting those coming as well as going.

April 13th. *Scarena. Sospello.* There are no orange trees after we leave the environs of Nice. We lose the olive after rising a little above the village of Scarena, on Mount Braus, and find it again on the other side, a little before we get down to Sospello. But wherever there is soil enough, it is terraced, and in corn. The waste parts are either in two-leaved pine and thyme, or of absolutely naked rock. Sospello is on a little torrent, called Bevera, which runs into the river Roia, at the mouth of which is Ventimiglia. The olive trees on the mountain are now loaded with fruit; while some at Sospello are in blossom. Firewood here and at Scarena, costs fifteen sous the quintal.

April 14th. *Ciandola. Tende.* In crossing Mount Brois, we lose the olive tree after getting to a certain height, and find it

again on the other side at the village of Breglio. Here we come to the river Roia, which, after receiving the branch on which is Sospello, leads to the sea at Ventimiglia. The Roia is about twelve yards wide, and abounds with speckled trout. Were a road made from Breglio, along the side of the Roia, to Ventimiglia, it might turn the commerce of Turin to this last place instead of Nice; because it would avoid the mountains of Braus and Brois, leaving only that of Tende; that is to say, it would avoid more than half the difficulties of the passage. Further on, we come to the Chateau di Saorgio, where a scene is presented, the most singular and picturesque I ever saw. The castle and village seem hanging to a cloud in front. On the right, is a mountain cloven through, to let pass a gurgling stream; on the left, a river, over which is thrown a magnificent bridge. The whole forms a basin, the sides of which are shagged with rocks, olive trees, vines, herds, &c. Near here, I saw a tub wheel without a ream; the trunk descended from the top of the water fall to the wheel, in a direct line, but with the usual inclination. The produce along this passage, is most generally olives, except on the heights as before observed; also corn, vines, mulberries, figs, cherries, and walnuts. They have cows, goats, and sheep. In passing on towards Tende, olives fail us ultimately at the village of Fontan, and there the chesnut trees begin in good quantity. Ciandola consists of only two houses, both taverns. Tende is a very inconsiderable village, in which they have not yet the luxury of glass windows; nor in any of the villages on this passage, have they yet the fashion of powdering the hair. Common stone and limestone are so abundant, that the apartments of every story are vaulted with stone, to save wood.

April 15th. *Limone. Coni.* I see abundance of limestone as far as the earth is uncovered with snow; *i. e.* within half or three-quarters of an hour's walk of the top. The snows descend much lower on the eastern than the western side. Wherever there is soil, there is corn quite to the commencement of the snows, and I suppose under them also. The waste parts are in two-leaved pine, lavender and thyme. From the foot of the

mountain to Coni, the road follows a branch of the Po, the plains of which begin narrow, and widen at length into a general plain country, bounded on one side by the Alps. They are good, dark colored, sometimes tinged with red, and in pasture, corn, mulberries, and some almonds. The hill sides bordering these plains, are reddish, and where they admit of it, are in corn; but this is seldom. They are mostly in chesnut, and often absolutely barren. The whole of the plains are plentifully watered from the river, as is much of the hill side. A great deal of golden willow all along the rivers, on the whole of this passage through the Alps. The southern parts of France, but still more the passage through the Alps, enable one to form a scale of the tenderer plants, arranging them according to their several powers of resisting cold. Ascending three different mountains, Braus, Brois, and Tende, they disappear one after another; and descending on the other side, they show themselves again one after another. This is their order, from the tenderest to the hardiest. Caper, orange, palm, aloe, olive, pomegranate, walnut, fig, almond. But this must be understood of the plant; for as to the fruit, the order is somewhat different. The caper, for example, is the tenderest plant, yet being so easily protected, it is the most certain in its fruit. The almond, the hardiest plant, loses its fruit the oftenest, on account of its forwardness. The palm, hardier than the caper and the orange, never produces perfect fruit in these parts. Coni is a considerable town, and pretty well built. It is walled.

April 16th. *Centale. Savigliano. Racconigi. Pocrino. Turin.* The Alps, as far as they are in view from north to south, show the gradation of climate, by the line which terminates the snows lying on them. This line begins at their foot northwardly, and rises, as they pass on to the south, so as to be half way up their sides on the most southern undulations of the mountain, now in view. From the mountains to Turin, we see no tree tenderer than the walnut. Of these, as well as of almonds and mulberries, there are a few; somewhat more of vines, but most generally, willows and poplars. Corn is sowed with all these. They mix with them also clover and small grass.

The country is a general plain; the soil dark, and sometimes, though rarely, reddish. It is rich, and much infested with wild onions. At Racconigi, I see the tops and shocks of maize, which prove it is cultivated here; but it can be in small quantities only, because I observe very little ground, but what has already something else in it. Here and there, are small patches prepared, I suppose, for maize. They have a method of planting the vine, which I have not seen before. At intervals of about eight feet, they plant from two to six plants of vine in a cluster. At each cluster they fix a forked staff, the plane of the prongs of the fork at a right angle with the row of vines. Athwart these prongs they lash another staff, like a handspike, about eight feet long, horizontally, seven or eight feet from the ground. Of course, it crosses the rows at right angles. The vines are brought from the foot of the fork up to this cross piece, turned over it, and conducted along over the next, the next, and so on, as far as they will extend, the whole forming an arbor eight feet wide and high, and of the whole length of the row, little interrupted by the stems of the vines, which being close around the fork, pass up through hoops, so as to occupy a space only of smaller diameter. All the buildings in this country are of brick, sometimes covered with plaster, sometimes not. There is a very large and handsome bridge of seven arches, over the torrent of Sangone. We cross the Po, in swinging batteaux. Two are placed side by side, and kept together by a plank floor, common to both, and lying on the gunwales. The carriage drives on this, without taking out any of the horses. About one hundred and fifty yards up the river, is a fixed stake, and a rope tied to it, the other end of which is made fast to one side of the batteaux, so as to throw them oblique to the current. The stream then acting on them, as on an inclined plane, forces them cross the current in the portion of a circle of which the rope is the radius. To support the rope in its whole length, there are two intermediate canoes, about fifty yards apart, in the heads of which are short masts. To the top of these, the rope is lashed, the canoes being free otherwise to concur with the general vibration, in their smaller arcs of circles. The Po is

there, about fifty yards wide, and about one hundred in the neighborhood of Turin.

April 17th, 18th. *Turin.* The first nightingale I have heard this year, is to-day (18th.) There is a red wine of Nebiule made in the neighborhood, which is very singular. It is about as sweet as the silky Madeira, as astringent on the palate as Bourdeaux, and as brisk as Champagne. It is a pleasing wine. At Moncaglieri, about six miles from Turin, on the right side of the Po, begins a ridge of mountains, which, following the Po by Turin, after some distance, spreads wide, and forms the duchy of Montferrat. The soil is mostly red, and in vines, affording a wine called Montferrat, which is thick and strong.

April 19th. *Settimo. Chivasco. Ciliano. S. Germano. Vercelli.* The country continues plain and rich, the soil black. The culture, corn, pasture, maize, vines, mulberries, walnuts, some willow and poplar. The maize bears a very small proportion to the small grain. The earth is formed into ridges from three to four feet wide, and the maize sowed in the broad cast on the higher parts of the ridge, so as to cover a third or half of the whole surface. It is sowed late in May. This country is plentifully and beautifully watered at present. Much of it is by torrents which are dry in summer. These torrents make a great deal of waste ground, covering it with sand and stones. These wastes are sometimes planted in trees, sometimes quite unemployed. They make hedges of willows, by setting the plants from one to three feet apart. When they are grown to the height of eight or ten feet, they bend them down, and interlace them one with another. I do not see any of these, however, which are become old. Probably, therefore, they soon die. The women here smite on the anvil, and work with the maul and spade. The people of this country are ill dressed in comparison with those of France, and there are more spots of uncultivated ground. The plough here is made with a single handle, which is a beam twelve feet long, six inches in diameter below, and tapered to about two inches at the upper end. They use goads for the oxen, not whips. The first swallows I have seen, are to-day. There is a wine called Gatina, made in the neighborhood of

Vercelli, both red and white. The latter resembles Calcavallo. There is also a red wine of Salusola which is esteemed. It is very light. In the neighborhood of Vercelli begin the rice fields. The water with which they are watered is very dear. They do not permit rice to be sown within two miles of the cities on account of the insalubrity. Notwithstanding this, when the water is drawn off the fields in August, the whole country is subject to agues and fevers. They estimate that the same measure of ground yields three times as much rice as wheat, and with half the labor. They are now sowing. As soon as sowed, they let on the water, two or three inches deep. After six weeks, or two months, they draw it off to weed; then let it on again, and it remains till August, when it is drawn off, about three or four weeks before the grain is ripe. In September they cut it. It is first threshed, then beaten in the mortar to separate the husk, then by different siftings it is separated into three qualities. Twelve rupes, equal to three hundred pounds of twelve ounces each, sell for sixteen livres, money of Piedmont, where the livre is exactly the shilling of England. Twelve rupes of maize sell for nine livres. The machine for separating the husk is thus made. In the axis of a water wheel are a number of arms inserted, which, as they revolve, catches each the cog of a pestle, lifts it to a certain height, and lets it fall again. These pestles are five and a quarter inches square, ten feet long, and at their lower end formed into a truncated cone of three inches diameter, where cut off. The conical part is covered with iron. The pestles are ten and a half inches apart in the clear. They pass through two horizontal beams, which string them, as it were, together, and while the mortises in the beams are so loose, as to let the pestles work vertically, it restrains them to that motion. There is a mortar of wood, twelve or fifteen inches deep, under each pestle, covered with a board, the hole of which is only large enough to let the pestle pass freely. There are two arms in the axis for every pestle, so that the pestle gives two strokes for every revolution of the wheel. Poggio, a muleteer, who passes every week between Vercelli and Genoa, will smuggle a sack of rough rice for me to Genoa; it being death to export it in that form.

They have good cattle, and in good number, mostly cream-colored; and some middle-sized sheep. The streams furnish speckled trout.

April 20th. *Novara. Buffalora. Sedriano. Milan.* From Vercelli to Novara the fields are all in rice, and now mostly under water. The dams separating the several water-plats, or ponds, are set in willow. At Novara there are some figs in the gardens, in situations well protected. From Novara to the Ticino, it is mostly stony and waste, grown up in broom. From Ticino to Milan, it is all in corn. Among the corn are willows, principally a good many mulberries, some walnuts, and here and there an almond. The country still a plain, the soil black and rich, except between Novara and the Ticino, as before mentioned. There is very fine pasture round Vercelli and Novara to the distance of two miles, within which rice is not permitted. We cross the Sisto on the same kind of vibrating or pendulum boat as on the Po. The river is eighty or ninety yards wide; the rope fastened to an island two hundred yards above, and supported by five intermediate canoes. It is about one and a half inches in diameter. On these rivers they use a short oar of twelve feet long, the flat end of which is hooped with iron, shooting out a prong at each corner, so that it may be used occasionally as a setting pole. There is snow on the Appenines, near Genoa. They have still another method here of planting the vine. Along rows of trees, they lash poles from tree to tree. Between the trees are set vines, which, passing over the pole, are carried on to the pole of the next tree, whose vines are in like manner brought to this, and twined together, thus forming the intervals between the rows of trees alternately into arbors and open space. They have another method also of making quick set hedges. Willows are planted from one to two feet apart, and interlaced, so that every one is crossed by three or four others.

April 21st, 22d. *Milan.* Figs and pomegranates grow here unsheltered, as I am told. I saw none, and therefore suppose them rare. They had formerly olives; but a great cold in 1709 killed them, and they have not been replanted. Among a great many

houses painted *al fresco*, the Casa Roma and Casa Candiani, by Appiani, and Casa Belgioiosa, by Martin, are superior. In the second is a small cabinet, the ceiling of which is in small hexagons, within which are Cameos and heads painted alternately, no two the same. The salon of the Casa Belgioiosa is superior to anything I have ever seen. The mixture called Scaiola, of which they make their walls and floors, is so like the finest marble as to be scarcely distinguishable from it. The nights of the 20th and 21st instant the rice ponds froze half an inch thick. Drouths of two or three months are not uncommon here in summer. About five years ago, there was such a hail as to kill cats. The Count del Verme tells me of a pendulum odometer for the wheel of a carriage. Leases here are mostly for nine years. Wheat costs a louis d'or the one hundred and forty pounds. A laboring man receives sixty livres, and is fed and lodged. The trade of this country is principally rice, raw silk, and cheese.

April 23d. *Casino*, five miles from Milan. I examined another rice-beater of six pestles. They are eight feet nine inches long. Their ends, instead of being a truncated cone, have nine teeth of iron, bound closely together. Each tooth is a double pyramid, joined at the base. When put together, they stand with the upper ends placed in contact, so as to form them into one great cone, and the lower ends diverging. The upper are socketed into the end of the pestle, and the lower, when a little blunted by use, are not unlike the jaw teeth of the mammoth, with their studs. They say here, that pestles armed with these teeth, clean the rice faster, and break it less. The mortar, too, is of stone, which is supposed as good as wood, and more durable. One half of these pestles are always up. They rise about twenty-one inches, and each makes thirty-eight strokes in a minute; one hundred pounds of rough rice is put into the six mortars, and beaten somewhat less than a quarter of an hour. It is then taken out, put into a sifter of four feet diameter, suspended horizontally; sifted there; shifted into another of the same size; sifted there; returned to the mortars; beaten little more than a quarter of an hour; sifted again; and it is finished. The six

pestles will clear four thousand pounds in twenty-four hours. The pound here is twenty-eight ounces; the ounce equal to that of Paris. The best rice requires half an hour's boiling; a more indifferent kind, somewhat less. To sow the rice, they first plough the ground, then level it with a drag harrow, and let on the water; when the earth has become soft, they smoothe it with a shovel under the water, and then sow the rice in the water.

Rozzano. Parmesan cheese. It is supposed this was formerly made at Parma, and took its name thence, but none is made there now. It is made through all the country extending from Milan for one hundred and fifty miles. The most is made about Lodi. The making of butter being connected with that of making cheese, both must be described together. There are, in the stables I saw, eighty-five cows, fed on hay and grass, not on grain. They are milked twice in twenty-four hours, ten cows yielding at the two milkings a *brenta* of milk, which is twenty-four of our gallons. The night's milk is scummed in the morning at daybreak, when the cows are milked again, and the new milk mixed with the old. In three hours, the whole mass is scummed a second time, the milk remaining in a kettle for cheese, and the cream being put into a cylindrical churn, shaped like a grindstone, eighteen inches radius, and fourteen inches thick. In this churn, there are three staves pointing inwardly, endwise, to break the current of the milk. Through its centre passes an iron axis, with a handle at each end. It is turned about an hour and a half by two men till the butter is produced. Then they pour off the buttermilk, and put in some water which they agitate backwards and forwards about a minute, and pour it off. They take out the butter, press it with their hands into loaves, and stamp it. It has no other washing. Sixteen American gallons of milk yield fifteen pounds of butter, which sell at twenty-four sous the pound.

The milk, which, after being scummed as before, had been put into a copper kettle, receives its due quantity of rennet, and is gently warmed, if the season requires it. In about four hours it becomes a slip. Then the whey begins to separate. A little of

it is taken out. The curd is then thoroughly broken by a machine like a chocolate mill. A quarter of an ounce of saffron is put to seven brenta of milk, to give color to the cheese. The kettle is then moved over the hearth, and heated by a quick fire till the curd is hard enough, being broken into small lumps by continued stirring. It is moved off the fire, most of the whey taken out, the curd compressed into a globe by the hand, a linen cloth slipped under it, and it is drawn out in that. A loose hoop is then laid on a bench, and the curd, as wrapped in the linen, is put into the hoop; it is a little pressed by the hand, the hoop drawn tight and made fast. A board two inches thick is laid on it, and a stone on that of about twenty pounds weight. In an hour, the whey is run off, and the cheese finished. They sprinkle a little salt on it every other day in summer, and every day in winter, for six weeks. Seven brentas of milk make a cheese of fifty pounds, which requires six months to ripen, and is then dried to forty-five pounds. It sells on the spot for eighty-eight livres the one hundred pounds. There are now one hundred and fifty cheeses in this dairy. They are nineteen inches diameter, and six inches thick. They make a cheese a day in summer, and two in three days, or one in two days, in winter.

The whey is put back into the kettle, the butter-milk poured into it, and of this, they make a poor cheese for the country people. The whey of this is given to the hogs. Eight men suffice to keep the cows, and to do all the business of this dairy. Mascarponi, a kind of curd, is made by pouring some butter-milk into cream, which is thereby curdled, and is then pressed into a linen cloth.

The ice-houses at Rozzano are dug about fifteen feet deep, and twenty feet diameter, and poles are driven down all round. A conical thatched roof is then put over them, fifteen feet high, and pieces of wood are laid at the bottom, to keep the ice out of the water which drips from it, and goes off by a sink. Straw is laid on this wood, and then the house filled with ice, always putting straw between the ice and the walls, and covering ultimately with straw. About a third is lost by melting. Snow

gives the most delicate flavor to creams; but ice is the most powerful congealer, and lasts longest. A tuft of trees surrounds these ice-houses.

Round Milan, to the distance of five miles, are corn, pasture, gardens, mulberries, willows, and vines. For in this State, rice ponds are not permitted within five miles of the cities.

Binasco. Pavia. Near Cassino the rice ponds begin, and continue to within five miles of Pavia, the whole ground being in rice, pasture, and willows. The pasture is in the rice grounds which are resting. In the neighborhood of Pavia, again, are corn, pasture, &c., as round Milan. They gave me green peas at Pavia.

April 24th. *Voghera. Tortona. Novi.* From Pavia to Novi, corn, pasture, vines, mulberries, willows; but no rice. The country continues plain, except that the Appenines are approaching on the left. The soil, always good, is dark till we approach Novi, and then red. We cross the Po where it is three hundred yards wide, in a pendulum boat. The rope is fastened on one side of the river, three hundred yards above, and supported by eight intermediate canoes, with little masts in them to give a greater elevation to the rope. We pass in eleven minutes. Women, girls, and boys are working with the hoe, and breaking the clods with mauls.

April 25th. *Voltaggio. Campo-Marone. Genoa.* At Novi, the Appenines begin to rise. Their growth of timber is oak, tall, small and knotty, and chesnut. We soon lose the walnut, ascending, and find it again, about one-fourth of the way down, on the south side. About half way down, we find figs and vines, which continue fine and in great abundance. The Appenines are mostly covered with soil, and are in corn, pasture, mulberries, and figs, in the parts before indicated. About half way from their foot to Genoa, at Campo-Marone, we find again the olive tree. Hence the produce becomes mixed, of all the kinds before mentioned. The method of sowing the Indian corn at Campo-Marone, is as follows: With a hoe shaped like the blade of a trowel, two feet long, and six inches broad at its upper end, pointed below, and a little carved, they make a

trench. In that, they drop the grains six inches apart. Then two feet from that, they make another trench, throwing the earth they take out of that on the grain of the last one, with a singular slight and quickness; and so through the whole piece. The last trench is filled with the earth adjoining.

April 26th. *Genoa.* Strawberries at Genoa. Scaffold poles for the upper parts of a wall, as for the third story, rest on the window sills of the story below. Slate is used here for paving, for steps, for stairs, (the rise as well as tread) and for fixed Venetian blinds. At the Palazzo Marcello Durazzo, benches with straight legs, and bottoms of cane. At the Palazzo del prencipe Lomellino, at Sestri, a phaeton with a canopy. At the former, tables folding into one plane. At Nervi they have peas, strawberries, &c., all the year round. The gardens of the Count Durazzo at Nervi, exhibit as rich a mixture of the *utile dulci*, as I ever saw. All the environs in Genoa, are in olives, figs, oranges, mulberries, corn, and garden stuff. Aloes in many places, but they never flower.

April 28th. *Noli.* The Apennine and Alps appear to me, to be one and the same continued ridge of mountains, separating everywhere the waters of the Adriatic Gulf from those of the Mediterranean. Where it forms an elbow, touching the Mediterranean, as a smaller circle touches a larger, within which it is inscribed, in the manner of a tangent, the name changes from Alps to Apennine. It is the beginning of the Apennine which constitutes the State of Genoa, the mountains there generally falling down in barren naked precipices into the sea. Wherever there is soil on the lower parts, it is principally in olives and figs, in vines also, mulberries, and corn. Where there are hollows well protected, there are oranges. This is the case at Golfo de Lespeze, Sestri, Bugiasco, Nervi, Genoa, Pegli, Savona, Finale, Oneglia, (where there are abundance.) St. Remo, Ventimiglia, Mantone, and Monaco. Noli, into which I was obliged to put, by a change of wind, is forty miles from Genoa. There are twelve hundred inhabitants in the village, and many separate houses round about. One of the precipices hanging over the sea, is covered with aloes. But neither here, nor anywhere else I

have been, could I procure satisfactory information that they ever flower. The current of testimony is to the contrary. Noli furnishes many fishermen. Paths penetrate up into the mountains in several directions, about three-fourths of a mile; but these are practicable only for asses and mules. I saw no cattle nor sheep in the settlement. The wine they make, is white and indifferent. A curious cruet for oil and vinegar in one piece, I saw here. A bishop resides here, whose revenue is two thousand livres, equal to sixty-six guineas. I heard a nightingale here.

April 29th. *Albenga.* In walking along the shore from Louano to this place, I saw no appearance of shells. The tops of the mountains are covered with snow, while there are olive trees, &c. on the lower parts. I do not remember to have seen assigned anywhere, the cause of the apparent color of the sea. Its water is generally clear and colorless, if taken up and viewed in a glass. That of the Mediterranean is remarkably so. Yet in the mass, it assumes, *by reflection*, the color of the sky or atmosphere, black, green, blue, according to the state of the weather. If any person wished to retire from his acquaintance, to live absolutely unknown, and yet in the midst of physical enjoyments, it should be in some of the little villages of this coast, where air, water and earth concur to offer what each has, most precious. Here are nightingales, beccaficas, ortolans, pheasants, partridges, quails, a superb climate, and the power of changing it from summer to winter at any moment, by ascending the mountains. The earth furnishes wine, oil, figs, oranges, and every production of the garden, in every season. The sea yields lobsters, crabs, oysters, thunny, sardines, anchovies, &c. Ortolans sell at this time, at thirty sous, equal to one shilling sterling, the dozen. At this season, they must be fattened. Through the whole of my route from Marseilles, I observe they plant a great deal of cane or reed, which is convenient while growing, as a cover from the cold and boisterous winds, and when cut, it serves for espaliers to vines, peas, &c. Through Piedmont, Lombardy, the Milanese, and Genoese, the garden bean is a great article of culture; almost as much so as corn. At Albenga, is a rich plain opening from between two ridges of mountains, tri-

angularly, to the sea, and of several miles extent. Its growth is olives, figs, mulberries, vines, corn, and beans. There is some pasture. A bishop resides here, whose revenue is forty thousand livres. This place is said to be rendered unhealthy in summer, by the river which passes through the valley.

April 30th. *Oneglia.* The wind continuing contrary, I took mules at Albenga for Oneglia. Along this tract are many of the tree called carroubier, being a species of locust. It is the ceratonia siliqua of Linnæus. Its pods furnish food for horses, and also for the poor, in time of scarcity. It abounds in Naples and Spain. Oneglia and Port Maurice, which are within a mile of each other, are considerable places, and in a rich country. At St. Remo, are abundance of oranges and lemons, and some palm trees.

May 1st. *Ventimiglia. Menton. Monaco. Nice.* At Bordighera, between Ventimiglia and Menton, are extensive plantations of palms, on the hill as well as in the plain. They bring fruit, but it does not ripen. Something is made of the midrib, which is in great demand at Rome, on the Palm Sunday, and which renders this tree profitable here. From Menton to Monaco, there is more good land, and extensive groves of oranges and lemons. Orange water sells here at forty sous, equal to sixteen pence sterling, the American quart. The distances on this coast, are, from Laspeze, at the eastern end of the territories of Genoa to Genoa, fifty-five miles, geometrical; to Savona, thirty; Albenga, thirty; Oneglia, twenty; Ventimiglia, twenty-five; Monaco, ten; Nice, ten; in the whole, one hundred and eighty miles. A superb road might be made along the margin of the sea from Laspeze, where the champaign country of Italy opens, to Nice, where the Alps go off northwardly, and the post roads of France begin; and it might even follow the margin of the sea quite to Cette. By this road, travellers would enter Italy without crossing the Alps, and all the little insulated villages of the Genoese would communicate together, and in time form one continued village along that road.

May 3d. *Luc. Brignolles. Tourves. Pourcieux. La Galiniere.* Long, small mountains, very rocky, the soil reddish

from bad to middling; in olives, grapes, mulberries, vines and corn. Brignolles is in an extensive plain, between two ridges of mountains, and along a water course which continues to Tourves. Thence to Pourcieux we cross a mountain, low and easy. The country is rocky and poor. To la Galiniere are waving grounds, bounded by mountains of rock at a little distance. There are some inclosures of dry wall from Luc to la Galiniere; also, sheep and hogs. There is snow on the high mountains. I see no plums in the vicinities of Brignolles; which makes me conjecture that the celebrated plum of that name, is not derived from this place.

May 8. *Orgon. Avignon. Vaucluse.* Orgon is on the Durance. From thence, its plain opens till it becomes common with that of the Rhone; so that from Orgon to Avignon is entirely a plain of rich dark loam, which is in willows, mulberries, vines, corn and pasture. A very few figs. I see no olives in this plain. Probably the cold winds have too much power here. From the Bac de Nova (where we cross the Durance) to Avignon, is about nine American miles; and from the same Bac to Vaucluse, eleven miles. In the valley of Vaucluse, and on the hills impending over it, are olive trees. The stream issuing from the fountain of Vaucluse is about twenty yards wide, four or five feet deep, and of such rapidity that it could not be stemmed by a canoe. They are now mowing hay, and gathering mulberry leaves. The high mountains just back of Vaucluse are covered with snow. Fine trout in the stream of Vaucluse, and the valley abounds peculiarly with nightingales. The vin blanc de M. de Rochequde of Avignon, resembles dry Lisbon. He sells it at six years old for twenty-two sous the bottle, the price of the bottle, &c., included.

Avignon. Remoulins. Some good plains, but generally hills, stony and poor. In olives, mulberries, vines and corn. Where it is waste the growth is, chene-vert, box, furze, thyme and rosemary.

May 10. *Nismes. Lunel.* Hills on the right, plains on the left. The soil reddish, a little stony, and of middling quality. The produce, olives, mulberries, vines, corn, St. foin. No wood

and few inclosures. Lunel is famous for its vin de muscat blanc, thence called Lunel, or vin muscat de Lunel. It is made from the raisin muscat, without fermenting the grain in the hopper. When fermented it makes a red muscat, taking the tinge from the dissolution of the skin of the grape, which injures the quality. When a red muscat is required, they prefer coloring it with a little Alicant wine. But the white is best. The piece of two hundred and forty bottles, after being properly drawn off from its lees, and ready for bottling, costs from one hundred and twenty to two hundred livres, the first quality and last vintage. It cannot be bought old, the demand being sufficient to take it all the first year. They are not more than from fifty to one hundred pieces a year, made of this first quality. A *setterie* yields about one piece, and my informer supposes there are about two setteries in an arpent. Portage to Paris by land is fifteen livres the quintal. The best *recoltes* are those of M. Bouquet and M. Tremoulet. The vines are in rows four feet apart, every way.

May 11. *Montpelier.* Snow on the Cevennes, still visible from here. With respect to the muscat grape, of which the wine is made, there are two kinds, the red and the white. The first has a red skin, but a white juice. If it be fermented in the *cuve*, the coloring matter which resides in the skin is imparted to the wine. If not fermented in the cuve, the wine is white. Of the white grape, only a white wine can be made. The species of St. foin cultivated here by the name of sparsette, is the hedysarum onobryches. They cultivate a great deal of madder (garance) rubia tinctorum here, which is said to be immensely profitable. Monsieur de Gouan tells me that the pine, of which they use the burs for fuel, is the pinus sativus, being two leaved. They use for an edging to the borders of their gardens, the santolina, which they call garderobe. I find the yellow clover here, in a garden; and the large pigeon succeeding well, confined in a house.

May 12. *Frontignan.* Some tolerably good plains in olives, vines, corn, St. foin, and lucerne. A great proportion of the hills are waste. There are some inclosures of stone, and some sheep. The first four years of madder are unproductive; the fifth and

sixth yield the whole value of the land. Then it must be renewed. The sparsette is the common or true St. foin. It lasts about five years; in the best land it is cut twice, in May and September, and yields three thousand pounds of dry hay to the setterie the first cutting, and five hundred pounds the second The setterie is of seventy-five *dextres en tout sens*, supposed about two arpents. Lucerne is the best of all forage; it is sowed here in the broadcast, and lasts about twelve or fourteen years. It is cut four times a year, and yields six thousand pounds of dry hay at the four cuttings, to the setterie. The territory in which the vin muscat de Frontignan is made, is about a league of three thousand toises long, and one-fourth of a league broad. The soil is reddish and stony, often as much stone as soil. On the left, it is a plain, on the right, hills. There are made about one thousand pieces (of two hundred and fifty bottles each) annally, of which six hundred are of the first quality, made on the *coteaux*. Of these, Madame Soubeiran makes two hundred, Monsieur Reboulle, ninety, Monsieur Lambert, médicin de la faculté de Montpelier, sixty, Monsieur Thomas, notaire, fifty, Monsieur Argilliers, fifty, Monsieur Audibert, forty; equal to four hundred and ninety; and there are some small proprietors who make small quantities. The first quality is sold, *brut*, for one hundred and twenty livres the piece; but it is then thick, and must have a winter and the *fouet* to render it potable and brilliant. The fouet is like a chocolate mill, the handle of iron, the brush of stiff hair. In bottles, this wine costs twenty-four sous, the bottles, &c., included. It is potable the April after it is made, is best that year, and after ten years begins to have a pitchy taste, resembling it to Malaga. It is not permitted to ferment more than half a day, because it would not be so liquorish. The best color, and its natural one, is the amber. By force of whipping, it is made white, but loses flavor. There are but two or three pieces a year of red muscat made; there being but one vineyard of the red grape, which belongs to a baker called Pascal. This sells in bottles at thirty sous, the bottle included. Rondelle, negociant en vin, Porte St. Bernard, fauxbourg St. Germains, Paris, buys three hundred pieces of the first quality every

year. The coteaux yield about half a piece to the setterie, the plains a whole piece. The inferior quality is not at all esteemed. It is bought by the merchants of Cette, as is also the wine of Bezieres, and sold by them for Frontignan of the first quality. They sell thirty thousand pieces a year under that name. The town of Frontignan marks its casks with a hot iron: an individual of that place having two casks emptied, was offered forty livres for the empty cask by a merchant of Cette. The town of Frontignan contains about two thousand inhabitants; it is almost on the level of the ocean. Transportation to Paris is fifteen livres the quintal, and takes fifteen days. The price of packages is about eight livres eight sous the one hundred bottles. A setterie of good vineyard sells for from three hundred and fifty to five hundred livres, and rents for fifty livres. A laboring man hires at one hundred and fifty livres the year, and is fed and lodged; a woman at half as much. Wheat sells at ten livres the settier, which weighs one hundred pounds, poids de table. They make some Indian corn here, which is eaten by the poor. The olives do not extend northward of this into the country, above twelve or fifteen leagues. In general, the olive country in Languedoc is about fifteen leagues broad. More of the waste lands between Frontignan and Mirval are capable of culture; but it is a marshy country, very subject to fever and ague, and generally unhealthy. Thence arises, as is said, a want of hands.

Cette. There are in this town about ten thousand inhabitants. Its principal commerce is wine; it furnishes great quantities of grape pomice for making verdigrise. They have a very growing commerce; but it is kept under by the privileges of Marseilles.

May 13. *Agde.* On the right of the Etang de Tau, are plains of some width, then hills, in olives, vines, mulberry, corn and pasture. On the left, a narrow sand bar separating the Etang from the sea, along which it is proposed to make a road from Cette to Agde. In this case, the post would lead from Montpelier, by Cette and Agde, to Bezieres, being leveller, and an hour, or an hour and a half nearer. Agde contains six or eight thousand inhabitants.

May 14. *Bezieres.* Rich plains in corn, St. foin and pasture; hills at a little distance to the right, in olives; the soil both of hill and plain is red, going from Agde to Bezieres. But at Bezieres the country becomes hilly, and is in olives, St. foin, pasture, some vines and mulberries.

May 15. *Bezieres. Argilies. Le Saumal.* From Argilies to Saumal are considerable plantations of vines. Those on the red hills to the right, are said to produce good wine. No wood, no inclosures. There are sheep and good cattle. The Pyrenees are covered with snow. I am told they are so in certain parts all the year The canal of Languedoc, along which I now travel, is six toises wide at bottom, and ten toises at the surface of the water, which is one toise deep. The barks which navigate it are seventy and eighty feet long, and seventeen or eighteen feet wide. They are drawn by one horse, and worked by two hands, one of which is generally a woman. The locks are mostly kept by women, but the necessary operations are much too laborious for them. The encroachments by the men, on the offices proper for the women, is a great derangement in the order of things. Men are shoemakers, tailors, upholsterers, stay-makers, mantua-makers, cooks, housekeepers, house-cleaners, bed-makers, they *coeffe* the ladies, and bring them to bed: the women, therefore, to live, are obliged to undertake the offices which they abandon. They become porters, carters, reapers, sailors, lock-keepers, smiters on the anvil, cultivators of the earth, &c. Can we wonder, if such of them as have a little beauty, prefer easier courses to get their livelihood, as long as that beauty lasts? Ladies who employ men in the offices which should be reserved for their sex, are they not bawds in effect? For every man whom they thus employ, some girl, whose place he has thus taken, is driven to whoredom. The passage of the eight locks at Bezieres, that is, from the opening of the first to the last gate, took one hour and thirty-three minutes. The bark in which I go, is about thirty-five feet long, drawn by one horse, and goes from two to three geographical miles an hour. The canal yields abundance of carp and eel. I see also small fish resembling our perch and chub. Some plants of white clover and some of yellow, on the

banks of the canal near Capestan; santolina also, and a great deal of yellow iris. Met a raft of about three hundred and fifty beams, forty feet long, and twelve or thirteen inches in diameter, formed into fourteen rafts, tacked together. The extensive and numerous fields of St. foin in general bloom, are beautiful.

May 16th. *Le Saumal. Marseillette.* May 17th. *Marseillette. Carcassonne.* From Saumal to Carcassonne, we have always the river Aube close on our left. This river runs in the valley between the Cevennes and Pyrenees, serving as the common receptacle for both their waters. It is from fifty to one hundred and fifty yards wide, always rapid, rocky, and insusceptible of navigation. The canal passes in the side of hills made by that river, overlooks the river itself, and its plains, and has its prospect ultimately terminated, on one side, by mountains of rock overtopped by the Pyrenees, on the other, by small mountains, sometimes of rock, sometimes of soil, overtopped by the Cevennes. Marseillette is on a ridge, which separates the river Aube from the Etang de Marseillette. The canal, in its approach to this village, passes the ridge, and rides along the front, overlooking the Etang, and the plains on its border; and having passed the village, re-crosses the ridge, and resumes its general ground in front of the Aube. The land is in corn, St. foin, pasture, vines, mulberries, willows, and olives.

May 18th. *Carcassonne. Castelnaudari.* Opposite to Carcassonne, the canal receives the river Fresquel, about thirty yards wide, which is its substantial supply of water from hence to Bezieres. From Bezieres to Agde, the river Orb furnishes it, and the Eraut, from Agde to the Etang de Thau. By means of *ecluse ronde* at Agde, the waters of the Eraut can be thrown towards Bezieres, to aid those of the Orb, as far as the ecluse de Porcaraigne, nine geometrical miles. Where the Fresquel enters the canal, there is, on the opposite side, a waste, to let off the superfluous waters. The horseway is continued over this waste, by a bridge of stone of eighteen arches. I observe them fishing in the canal, with a skimming net of about fifteen feet diameter, with which they tell me they catch carp. Flax in blossom. Neither strawberries nor peas yet at Carcassonne. The

Windsor bean just come to table. From the ecluse de la Lande we see the last olive trees near a metairée, or farm house, called la Lande. On a review of what I have seen and heard of this tree, the following seem to be its northern limits. Beginning on the Atlantic, at the Pyrenees, and along them to the meridian of la Lande, or of Carcassonne; up that meridian to the Cevennes, as they begin just there to raise themselves high enough to afford it shelter. Along the Cevennes, to the parallel of forty-five degrees of latitude, and along that parallel (crossing the Rhone near the mouth of the Isere) to the Alps; thence along the Alps and Apennines, to what parallel of latitude I know not. Yet here the tracing of the line becomes the most interesting. For from the Atlantic, so far, we see this production the effect of shelter and latitude combined. But where does it venture to launch forth unprotected by shelter, and by the mere force of latitude alone? Where for instance does its northern limits cross the Adriatic? I learn that the olive tree resists cold to eight degrees of Reaumur below the freezing point, which corresponds to fourteen above zero of Farenheit; and that the orange resists to four degrees below freezing of Reaumur, which is twenty-three degrees above zero of Farenheit.

May 19th. *Castelnaudari. St. Feriol. Escamaze. Lampy.* Some sheep and cattle; no inclosures. St. Feriol, Escamaze, and Lampy are in the *montagnes noires*. The country almost entirely waste. Some of it in shrubbery. The *voute* d'Escamaze is of one hundred and thirty-five yards. Round about Castelnaudari, the country is hilly, as it has been constantly from Bezieres; it is very rich. Where it is plain, or nearly plain, the soil is black; in general, however, it is hilly and reddish, and in corn. They cultivate a great deal of Indian corn here, which they call millet; it is planted but not yet up.

May 20th. *Castelnaudari. Naurouze. Villefranche. Baziege.* At Naurouze, is the highest ground which the canal had to pass, between the two seas. It became neccessary then to find water still higher to bring it here. The river Fresquel heading by its two principal branches in the montagnes noires, a considerable distance off to the eastward, the springs of the

most western one were brought together, and conducted to Naurouze, where its waters are divided, part furnishing the canal towards the ocean, the rest towards the Mediterranean, as far as the ecluse de Fresquel, where, as has been before noted, the Lampy branch, and the Alzau, under the name of the Fresquel, enter.

May 20th. They have found that a lock of six pieds is best; however, eight pieds is well enough. Beyond this, it is bad. Monsieur Pin tells me of a lock of thirty pieds, made in Sweden, of which it is impossible to open the gates. They therefore divided it into four locks. The small gates of the locks of this canal, have six square pieds of surface. They tried the machinery of the jack for opening them. They were more easily opened, but very subject to be deranged, however strongly made. They returned therefore to the original wooden screw, which is excessively slow and laborious. I calculate that five minutes are lost at every basin by this screw, which, on the whole number of basis, is one eighth of the time necessary to navigate the canal; and of course, if a method of lifting the gate at one stroke could be found, it would reduce the passage from eight to seven days, and the freight equally. I suggested to Monsieur Pin and others, a quadrantal gate, turning on a pivot, and lifted by a lever like a pump handle, aided by a windlass and cord, if necessary. He will try it, and inform me of the success. The price of transportation from Cette to Bourdeaux, through the canal and Garonne is —— the quintal; round by the straits of Gibraltar is ——. Two hundred and forty barks, the largest of twenty-two hundred quintals (or say, in general, of one hundred tons) suffice to perform the business of this canal, which is stationary, having neither increased nor diminished for many years. When pressed, they can pass and repass between Toulouse and Bezieres in fourteen days; but sixteen is the common period. The canal is navigated ten and a half months of the year; the other month and a half being necessary to lay it dry, cleanse it and repair the works. This is done in July and August, when there would, perhaps, be a want of water.

May 21st. *Baziege. Toulouse.* The country continues hilly, but very rich. It is in mulberries, willows, some vines, corn, maize, pasture, beans, flax. A great number of chateaux and good houses, in the neighborhood of the canal. The people partly in farm houses, partly in villages. I suspect the farm houses are occupied by the farmers, while the laborers (who are mostly by the day) reside in the villages. Neither strawberries nor peas yet at Baziege or Toulouse. Near the latter, are some fields of yellow clover.

At Toulouse the canal ends. It has four communications with the Mediterranean. 1. Through the ponds of Thau, Frontignan, Palavas, Maguelone, and Maujo, the canal de la Radela Aiguesmortes, le canal des Salines de Pecair, and the arm of the Rhone called Bras de fer, which ends at Fourgues, opposite to Arles, and thence down the Rhone. 2. At Cette, by a canal of a few hundred toises, leading out of the Etang de Thau into the sea. The vessels pass the Etang, through a length of nine thousand toises, with sails. 3. At Agde, by the river Eraut, twenty-five hundred toises. It has but five or six pieds of water at its mouth. It is joined to the canal at the upper part of this communication, by a branch of a canal two hundred and seventy toises long. 4. At Narbonne, by a canal they are now opening, which leads from the great canal near the aqueduct of the river Cesse, twenty-six hundred toises, into the Aude. This new canal will have five lock-basins of about twelve pieds fall, each. Then you are to cross the Aude very obliquely, and descend a branch of it six thousand toises, through four lock-basins to Narbonne, and from Narbonne down the same branch, twelve hundred toises into the Etang de Sigen, across that Etang four thousand toises, issuing at an inlet, called Grau de la nouvelle, into the Gulph of Lyons. But only vessels of thirty or forty tons can enter this inlet. Of these four communications, that of Cette only, leads to a deep sea-port, because the exit is there by a canal, and not a river. Those by the Rhone, Eraut, and Aude, are blocked up by bars at the mouths of those rivers. It is remarkable, that all the rivers running into the Mediterranean, are obstructed at their entrance by bars and shallows, which

often change their position. This is the case with the Nile, Tyber, the Po, the Lez, le Lyoron, the Orbe, the Gly, the Tech, the Tet, &c. Indeed, the formation of these bars seems not confined to the mouths of the rivers, though it takes place at them, more certainly. Along almost the whole of the coast, from Marseilles towards the Pyrenees, banks of sand are thrown up, parallel with the coast, which have insulated portions of the sea, that is, formed them into etangs, ponds, or sounds, through which here and there, narrow and shallow inlets only, are preserved by the currents of the rivers. These sounds fill up in time, with the mud and sand deposited in them by the rivers. Thus the Etang de Vendres, navigated formerly by vessels of sixty tons, is now nearly filled up by the mud and sand of the Aude. The Vistre and Vidourle which formerly emptied themselves into the Gulf of Lyons, are now received by the Etangs de Manjo and Aiguesmortes, that is to say, the part of the Gulf of Lyons which formerly received, and still receives those rivers, is now cut off from the sea by a bar of sand, which has been thrown up in it, and has formed it into sounds. Other proofs that the land gains there on the sea, are, that the towns of St. Gilles and Notre dame d'asposts, formerly sea ports, are now far from the sea, and that Aiguesmortes, where are still to be seen the iron rings to which vessels were formerly moored, and where St. Louis embarked for Palestine, has now in its vicinities, only ponds which cannot be navigated, and communicates with the sea by an inlet, called Grau du roy, through which only fishing barks can pass. It is pretty well established, that all the Delta of Egypt has been formed by the depositions of the Nile, and the alluvions of the sea, and it is probable that that operation is still going on. Has this peculiarity of the Mediterranean any connection with the scantiness of its tides, which even at the equinoxes, are of two or three feet only?

The communication from the western end of the canal to the ocean is by the river Garonne. This is navigated by flat boats of eight hundred quintals, when the water is well; but when it is scanty, these boats carry only two hundred quintals till they get to the mouth of the Tarn. It has been proposed to

open a canal that far, from Toulouse, along the right side of the river.

May 22d. *Toulouse.* 23d. *Agen.* 24th. *Castres. Bourdeaux.* The Garonne and rivers emptying into it, make extensive and rich plains, which are in mulberries, willows, corn, maize, pasture, beans and flax. The hills are in corn, maize, beans, and a considerable proportion of vines. There seems to be as much maize as corn in this country. Of the latter, there is more rye than wheat. The maize is now up, and about three inches high. It is sowed in rows two feet, or two and a half feet apart, and is pretty thick in the row. Doubtless they mean to thin it. There is a great deal of forage they call farouche. It is a species of red trefoil, with few leaves, a very coarse stalk, and a cylindrical blossom of two inches in length, and three quarters of an inch in diameter, consisting of floscules, exactly as does that of the red clover. It seems to be a coarse food, but very plentiful. They say it is for their oxen. These are very fine, large, and cream-colored. The services of the farm, and of transportation, are performed chiefly by them. There are a few horses and asses, but no mules. Even in the city of Bourdeaux, we see scarcely any beasts of draught but oxen. When we cross the Garonne at Langon, we find the plains entirely of sand and gravel, and they continue so to Bourdeaux. Where they are capable of anything, they are in vines, which are in rows, four, five, or six feet apart, and sometimes more. Near Langon is Sauterne, where the best white wines of Bourdeaux are made. The waste lands are in fern, furze, shrubbery, and dwarf trees. The farmers live on their farms. At Agen, Castres, Bourdeaux, strawberries and peas are now brought to table, so that the country on the canal of Languedoc seems to have later seasons than that east and west of it. What can be the cause? To the eastward, the protection of the Cevennes makes the warm season advance sooner. Does the neighborhood of the Mediterranean co-operate? And does that of the ocean mollify and advance the season to the westward? There are ortolans at Agen, but none at Bourdeaux. The buildings on the canal and the Garonne are mostly of brick, the size of the bricks the same with that of the ancient Roman

brick, as seen in the remains of their buildings in this country. In those of a circus at Bourdeaux, considerable portions of which are standing, I measured the bricks, and found them nineteen or twenty inches long, eleven or twelve inches wide, and from one and a half to two inches thick; their texture as fine, compact, and solid as that of porcelain. The bricks now made, though of the same dimensions, are not so fine. They are burnt in a kind of furnace, and make excellent work. The elm tree shows itself at Bourdeaux, peculiarly proper for being spread flat for arbors. Many are done in this way on the quay des Charterons. Strawberries, peas, and cherries at Bourdeaux.

May 24th, 25th, 26th, 27th, 28th. *Bourdeaux.* The cantons in which the most celebrated wines of Bourdeaux are made, are Medoc down the river, Grave adjoining the city, and the parishes next above; all on the same side of the river. In the first is made red wine principally, in the two last, white. In Medoc, they plant the vines in cross rows of three and a half pieds. They keep them so low, that poles extended along the rows one way, horizontally, about fifteen or eighteen inches above the ground, serve to tie the vines to, and leave the cross row open to the plough. In Grave, they set the plants in quincunx, *i. e.* in equilateral triangles of three and a half pieds every side; and they stick a pole of six or eight feet high to every vine, separately. The vine stock is sometimes three or four feet high. They find these two methods equal in culture, duration, quantity and quality. The former, however, admits the alternative of tending by hand or with the plough. The grafting of the vine, though a critical operation, is practised with success. When the graft has taken, they bend it into the earth, and let it take root above the scar. They begin to yield an indifferent wine at three years old, but not a good one till twenty-five years, nor after eighty, when they begin to yield less, and worse, and must be renewed. They give three or four workings in the year, each worth seventy, or seventy-five livres the *journal*, which is of eight hundred and forty square toises, and contains about three thousand plants. They dung a little in Medoc and Grave, because of the poverty of the soil; but very little, as

more would effect the wine. The journal yields, *communibus annis*, about three pieces (of two hundred and forty or two hundred and fifty bottles each). The vineyards of first quality are all worked by their proprietors. Those of the second rent for three hundred livres the journal, those of the third at two hundred livres. They employ a kind of overseer at four or five hundred livres the year, finding him lodging and drink; but he feeds himself. He superintends and directs, though he is expected to work but little. If the proprietor has a garden, the overseer tends that. They never hire laborers by the year. The day wages for a man are thirty sous, a woman's fifteen sous, feeding themselves. The women make the bundles of sarment, weed, pull off the snails, tie the vines, and gather the grapes. During the vintage, they are paid high and fed well.

Of red wines, there are four vineyards of the first quality, viz., 1. Château Margau, belonging to the Marquis d'Agicourt, who makes about one hundred and fifty tons, of one thousand bottles each. He has engaged to Jernon, a merchant. 2. La Tour de Segur, en Saint Lambert, belonging to Monsieur Miresmenil, who makes one hundred and twenty-five tons. 3. Hautbrion, belonging two thirds to M. le Comte de Femelle, who has engaged to Barton, a merchant; the other third to the Comte de Toulouse, at Toulouse. The whole is seventy-five tons. 4. Château de la Fite, belonging to the President Pichard, at Bourdeaux, who makes one hundred and seventy-five tons. The wines of the three first are not in perfection till four years old; those of De la Fite, being somewhat lighter, are good at three years, that is, the crop of 1786 is good in the spring of 1789. These growths of the year 1783 sell now at two thousand livres the ton; those of 1784, on account of the superior quality of that vintage, sell at twenty-four hundred livres; those of 1785, at eighteen hundred livres; those of 1786, at eighteen hundred livres, though they had sold at first for only fifteen hundred livres. Red wines of the second quality, are Rozan, Dabbadie or Lionville, la Rose, Quirouen, Durfort; in all eight hundred tons, which sell at one thousand livres, new. The third class are, Calons, Mouton, Gassie, Arboete, Pontette, de Ferme, Candale; in all two thou-

sand tons, at eight or nine hundred livres. After these, they are reckoned common wines, and sell from five hundred livres down to one hundred and twenty livres the ton. All red wines decline after a certain age, losing color, flavor and body. Those of Bourdeaux begin to decline at about seven years old.

Of white wines, those made in the canton of Grave are most esteemed at Bourdeaux. The best crops are, 1. Pontac, which formerly belonged to M. de Pontac, but now to M. de Lamont. He makes forty tons, which sell at four hundred livres, new. 2. St. Brise, belonging to M. de Pontac; thirty tons, at three hundred and fifty livres. 3. De Carbonius, belonging to the Benedictine monks, who make fifty tons, and never selling till three or four years old, get eight hundred livres the ton. Those made in the three parishes next above Grave, and more esteemed at Paris, are, 1. Sauterne. The best crop belonging to M. Diquem at Bourdeaux, or to M. de Salus, his son-in-law; one hundred and fifty tons, at three hundred livres, new, and six hundred livres, old. The next best crop is M. de Filotte's; one hundred tons, sold at the same price. 2. Prignac. The best is the President du Roy's, at Bourdeaux. He makes one hundred and seventy-five tons, which sell at three hundred livres, new, and six hundred livres, old. Those of 1784, for their extraordinary quality, sell at eight hundred livres. 3. Barsac. The best belongs to the President Pichard, who makes one hundred and fifty tons, at two hundred and eighty livres, new, and six hundred livres, old. Sauterne is the pleasantest; next Prignac, and lastly Barsac; but Barsac is the strongest; next Prignac, and lastly Sauterne; and all stronger than Grave. There are other good crops made in the same parishes of Sauterne, Prignac, and Barsac; but none as good as these. There is a virgin wine, which, though made of a red grape, is of a light rose color, because, being made without pressure, the coloring matter of the skin does not mix with the juice. There are other white wines, from the preceding prices down to seventy-five livres. In general, the white wines keep longest. They will be in perfection till fifteen or twenty years of age. The best vintage now to be bought, is

of 1784; both of red and white. There has been no other good year since 1779.

The celebrated vineyards before mentioned are plains, as is generally the canton of Medoc, and that of the Grave. The soil of Hautbrion, particularly, which I examined, is a sand, in which is near as much round gravel or small stone, and very little loam; and this is the general soil of Medoc. That of Pontac, which I examined also, is a little different. It is clayey, with a fourth or fifth of fine rotten stone; and at two feet depth it becomes all a rotten stone. M. de Lamont tells me he has a kind of grape without seeds, which I did not formerly suppose to exist; but I saw at Marseilles dried raisins from Smyrna without seeds. I saw in his farm at Pontac some plants of white clover, and a good deal of yellow; also some small peach trees in the open ground. The principal English wine merchants at Bourdeaux are, Jemon, Barton, Johnston, Foster, Skinner, Copinger and M'Cartey; the chief French wine merchants are, Feger, Nerac, Bruneau, Jauge, and du Verget. Desgrands, a wine broker, tells me they never mix the wines of first quality; but that they mix the inferior ones to improve them. The smallest wines make the best brandy. They yield about a fifth or sixth.

May 28th, 29th. From Bordeaux to Blaye, the country near the river is hilly, chiefly in vines, some corn, some pasture: further out, are plains, boggy and waste. The soil, in both cases, clay and grit. Some sheep on the waste. To Etauliere, we have sometimes boggy plains, sometimes waving grounds and sandy, always poor, generally waste, in fern and furze, with some corn however, interspersed. To Miramboau and St. Genis, it is hilly, poor, and mostly waste. There are some corn and maize however, and better trees than usual. Towards Pons, it becomes a little red, mostly rotten stone. There are vines, corn, and maize, which is up. At Pons we approach the Clareuton; the country becomes better, a blackish mould mixed with a rotten chalky stone; a great many vines, corn, maize, and farouche. From Lajart to Saintes and Rochefort, the soil is reddish, its foundation a chalky rock, at about a foot depth: in vines, corn, maize, clover, lucerne, and pasture. There are

more and better trees than I have seen in all my journey; a great many apple and cherry trees; fine cattle and many sheep. May 30th. From Rochefort to le Rochex, it is sometimes hilly and red, with a chalky foundation, middling good; in corn, pasture, and some waste; sometimes it is reclaimed marsh, in clover and corn, except the parts accessible to the tide, which are in wild grass. About Rochelle, it is a low plain. Towards Usseau, and half way to Marans, level highlands, red, mixed with an equal quantity of broken chalk; mostly in vines, some corn and pasture; then to Marans and half way to St. Hermines, it is reclaimed marsh, dark, tolerably good, and all in pasture; there we rise to plains a little higher, red, with a chalky foundation, boundless to the eye, and altogether in corn and maize. May 31st. At St. Hermines, the country becomes very hilly, a red clay mixed with chalky stone, generally waste, in furze and broom, with some patches of corn and maize; and so it continues to Chantenay, and St. Fulgent. Through the whole of this road from Bourdeaux, are frequent hedge rows, and small patches of forest wood, not good, yet better than I had seen in the preceding part of my journey. Towards Montaigu, the soil mends a little; the cultivated parts in corn and pasture, the uncultivated in broom. It is in very small inclosures of ditch and quickset. On approaching the Loire to Nantes, the country is levelled; the soil from Rochelle to this place, may be said to have been sometimes red, but oftener grey, and always on a chalky foundation. The last census, of about 1770, made one hundred and twenty thousand inhabitants at Nantes. They conjecture there are now one hundred and fifty thousand, which equals it to Bourdeaux. June 1st, 2d. The country from Nantes to L'Orient is very hilly and poor, the soil grey; nearly half is waste, in furze and broom, among which is some poor grass. The cultivated parts are in corn, some maize, a good many apple trees; no vines. All is in small inclosures of quick hedge and ditch. There are patches and hedge-rows of forest wood, not quite deserving the name of timber. The people are mostly in villages; they eat rye bread, and are ragged. The villages announce a general poverty, as does every other appearance.

Women smite on the anvil, and work with the hoe, and cows are yoked to labor. There are great numbers of cattle, insomuch that butter is their staple. Neither asses nor mules; yet it is said that the fine mules I have met with on my journey, are raised in Poictou. There are but few chateaux here. I observe mill ponds, and hoes with long handles. Have they not, in common with us, derived these from England, of which Bretagne is probably a colony? L'Orient is supposed to contain twenty-five thousand inhabitants. They tell me here, that to make a reasonable profit on potash and pearl ash, as bought in America, the former should sell at thirty livres, the latter thirty-six livres the quintal. Of turpentine they make no use in their vessels. Bayonne furnishes pitch enough; but tar is in demand, and ours sells well. The tower of L'Orient is sixty-five pieds above the level of the sea, one hundred and twenty pieds high, twenty-five pieds in diameter; the stairs four feet radius, and cost thirty-thousand livres, besides the materials of the old tower.

June 3d, 4th, 5th. The country and productions from L'Orient to Rennes, and from Rennes to Nantes, are precisely similar to those from Nantes to L'Orient. About Rennes, it is somewhat levellier, perhaps less poor, and almost entirely in pasture. The soil always grey. Some small separate houses which seem to be the residence of laborers, or very small farmers; the walls frequently of mud, and the roofs generally covered with slate. Great plantations of walnut, and frequently of pine. Some apple trees and sweet briar still in bloom, and broom generally so. I have heard no nightingale since the last day of May. There are gates in this country made in such a manner, that the top rail of the gate overshoots backwards the hind post, so as to counterpoise the gate, and prevent its swagging.

Nantes. Vessels of eight feet draught only, can come to Nantes. Those which are larger, lie at Point Boeuf, ten leagues below Nantes, and five leagues above the mouth of the river. There is a continued navigation from Nantes to Paris, through the Loire, the canal de Briare and the Seine. Carolina rice is preferred to that of Lombardy for the Guinea trade, because it requires less water to boil it.

June 6th, 7th, 8th. *Nantes. Ancenis. Angers. Tours* Ascending the Loire from Nantes, the road, as far as Angers, leads over the hills, which are grey, oftener below than above mediocrity, and in corn, pasture, vines, some maize, flax, and hemp. There are no waste lands. About the limits of Bretagne and Anjou, which are between Loriottiere and St. George, the lands change for the better. Here and there, we get views of the plains on the Loire, of some extent, and good appearance, in corn and pasture. After passing Angers, the road is raised out of the reach of inundations, so as at the same time, to ward them off from the interior plains. It passes generally along the river side; but sometimes leads through the plains, which, after we pass Angers, become extensive and good, in corn, pasture, some maize, hemp, flax, peas, and beans; many willows, also poplars and walnuts. The flax is near ripe. Sweet briar in general bloom. Some broom here still, on which the cattle and sheep browse in winter and spring, when they have no other green food; and the hogs eat the blossoms and pods, in spring and summer. This blossom, though disagreeable when smelt in a small quantity, is of delicious fragrance when there is a whole field of it. There are some considerable vineyards in the river plains, just before we reach Les trois volées, (which is at the one hundred and thirty-sixth mile stone) and after that, where the hills on the left come into view, they are mostly in vines. Their soil is clayey and stony, a little reddish, and of southern aspect. The hills on the other side of the river, looking to the north, are not in vines. There is very good wine made on these hills; not equal indeed to the Bourdeaux of best quality, but to that of good quality, and like it. It is a great article of exportation from Anjou and Touraine, and probably is sold abroad, under the name of Bourdeaux. They are now mowing the first crop of hay. All along both hills of the Loire, is a mass of white stone, not durable, growing black with time, and so soft, that the people cut their houses out of the solid, with all the partitions, chimnies, doors, &c. The hill sides resemble cony burrows, full of inhabitants. The borders of the

Loire, are almost a continued village. There are many chateaux; many cattle, sheep, and horses; some asses.

Tours is at the one hundred and nineteenth mile stone. Being desirous of inquiring here into a fact stated by Voltaire, in his Questions Encyclopediques, article Coquilles, relative to the growth of shells unconnected with animal bodies, at the Chateau of Monsieur de la Sauvagiere, near Tours, I called on Monsieur Gentil, premier secretaire de l'Intendance, to whom the Intendant had written on my behalf, at the request of the Marquis de Chastellux. I stated to him the fact as advanced by Voltaire, and found he was, of all men, the best to whom I could have addressed myself. He told me he had been in correspondence with Voltaire on that very subject, and was perfectly acquainted with Monsieur de la Sauvagiere, and the Faluniere where the fact is said to have taken place. It is at the Chateau de Grillemont, six leagues from Tours, on the road to Bourdeaux, belonging now to Monsieur d'Orcai. He says, that de la Sauvagiere was a man of truth, and might be relied on for whatever facts he stated as of his own observations; but that he was overcharged with imagination, which, in matters of opinion and theory, often led him beyond his facts: that this feature in his character had appeared principally in what he wrote on the antiquities of Touraine; but that, as to the fact in question, he believed him. That he himself, indeed, had not watched the same identical shells, as Sauvagiere had done, growing from small to great; but that he had often seen such masses of those shells of all sizes, from a point to a full size, as to carry conviction to his mind that they were in the act of growing; that he had once made a collection of shells for the Emperor's cabinet, reserving duplicates of them for himself; and that these afforded proofs of the same fact; that he afterwards gave those duplicates to a Monsieur du Verget, a physician of Tours, of great science and candor, who was collecting on a larger scale, and who was perfectly in sentiment with Monsieur de la Sauvagiere, that not only the Faluniere, but many other places about Tours, would convince any unbiassed observer, that shells are a fruit of the earth, spontaneously produced; and he gave me a copy of de la

Sauvagiere's Recueil de Dissertations, presented by the author wherein is one Sur la vegetation spontanée des coquilles du Chateau des Places. So far, I repeat from him. What are we to conclude? That we have not materials enough yet, to form any conclusion. The fact stated by Sauvagiere is not against any law of nature, and is therefore possible; but it is so little analogous to her habitual processes, that, if true, it would be extraordinary; that to command our belief, therefore, there should be such a suite of observations, as that their untruth would be more extraordinary than the existence of the fact they affirm. The bark of trees, the skin of fruits and animals, the feathers of birds, receive their growth and nutriment from the internal circulation of a juice through the vessels of the individual they cover. We conclude from analogy, then, that the shells of the testaceous tribe, receive also their growth from a like internal circulation. If it be urged, that this does not exclude the possibility of a like shell being produced by the passage of a fluid through the pores of the circumjacent body, whether of earth, stone, or water; I answer, that it is not within the usual economy of nature, to use two processes for one species of production. While I withhold my assent, however, from this hypothesis, I must deny it to every other I have ever seen, by which their authors pretend to account for the origin of shells in high places. Some of these are against the laws of nature, and therefore impossible; and others are built on positions more difficult to assent to, than that of de la Sauvagiere. They all suppose the shells to have covered submarine animals, and have then to answer the question, How came they fifteen thousand feet above the level of the sea? And they answer it, by demanding what cannot be conceded. One, therefore, who had rather have no opinion than a false one, will suppose this question one of those beyond the investigation of human sagacity; or wait till further and fuller observations enable him to decide it.

Chanteloup. I heard a nightingale to-day at Chanteloup. The gardener says, it is the male who alone sings, while the female sits; and that when the young are hatched, he also ceases. In the border at Chanteloup, is an ingenious contrivance to hide

the projecting steps of a stair-case. Three steps were of necessity to project into the boudoir: they are therefore made triangular steps; and instead of being rested on the floor, as usual, they are made fast at their broad end to the stair door, swinging out and in, with that. When it shuts, it runs them under the other steps; when open, it brings them out to their proper place. In the kitchen garden, are three pumps, worked by one horse. The pumps are placed in an equilateral triangle, each side of which is of about thirty-five feet. In the centre is a post, ten or twelve feet high, and one foot in diameter. In the top of this, enters the bent end of a lever, of about twelve or fifteen feet long, with a swingle tree at the other end. About three feet from the bent end, it receives on a pin, three horizontal bars of iron, which at their other end lay hold of one corner of a quadrantal crank (like a bell crank) moving in a vertical plane, to the other corner of which is hooked the vertical handle of the pump. The crank turns on its point as a centre, by a pin or pivot passing through it. The horse moving the lever horizontally in a circle, every point of the lever describes a horizontal circle. That which receives the three bars, describes a circle of six feet in diameter. It gives a stroke then of six feet to the handle of each pump, at each revolution.

Blois. Orleans. June 9, 10. At Blois, the road leaves the river, and traverses the hills, which are mostly reddish, sometimes gray, good enough, in vines, corn, St. foin. From Orleans to the river Juines, at Estampes, it is a continued plain of corn, and St. foin, tolerably good, sometimes gray, sometimes red. From Estampes to Estrechy, the country is mountainous and rocky, resembling that of Fontainebleau. Quere. If it may not be the same vein?

XII.

A Tour to some of the Gardens of England.

[Memorandems made on a tour to some of the gardens in England, described by Whateley in his book on gardening.] While his

descriptions, in point of style, are models of perfect elegance and classical correctness, they are as remarkable for their exactness. I always walked over the gardens with his book in my hand, examined with attention the particular spots he described, found them so justly characterized by him as to be easily recognized, and saw with wonder, that his fine imagination had never been able to seduce him from the truth. My inquiries were directed chiefly to such practical things as might enable me to estimate the expense of making and maintaining a garden in that style. My journey was in the months of March and April, 1786.

Chiswick.—Belongs to Duke of Devonshire. A garden about six acres;—the octagonal dome has an ill effect, both within and without: the garden shows still too much of art. An obelisk of very ill effect; another in the middle of a pond useless.

Hampton-Court.—Old fashioned. Clipt yews grown wild.

Twickenham.—Pope's original garden, three and a half acres. Sir Wm. Stanhope added one and a half acre. This is a long narrow slip, grass and trees in the middle, walk all round. Now Sir Wellbore Ellis's. Obelisk at bottom of Pope's garden, as monument to his mother. Inscription, "Ah! Editha, matrum optima, mulierum amantissima, Vale." The house about thirty yards from the Thames: the ground shelves gently to the water side; on the back of the house passes the street, and beyond that the garden. The grotto is under the street, and goes out level to the water. In the centre of the garden a mound with a spiral walk round it. A rookery.

Esher-Place.—The house in a bottom near the river; on the other side the ground rises pretty much. The road by which we come to the house forms a dividing line in the middle of the front; on the right are heights, rising one beyond and above another, with clumps of trees; on the farthest a temple. A hollow filled up with a clump of trees, the tallest in the bottom, so that the top is quite flat. On the left the ground descends. Clumps of trees, the clumps on each hand balance finely—a most lovely mixture of concave and convex. The garden is of about forty-five acres, besides the park which joins. Belongs to Lady Frances Pelham.

Claremont.—Lord Clive's. Nothing remarkable.

Paynshill.—Mr. Hopkins. Three hundred and twenty-three acres, garden and park all in one. Well described by Whateley. Grotto said to have cost £7,000. Whateley says one of the bridges is of stone, but both now are of wood, the lower sixty feet high: there is too much evergreen. The dwelling-house built by Hopkins, ill-situated: he has not been there in five years. He lived there four years while building the present house. It is not finished; its architecture is incorrect. A Doric temple, beautiful.

Woburn.—Belongs to Lord Peters. Lord Loughborough is the present tenant for two lives. Four people to the farm, four to the pleasure garden, four to the kitchen garden. All are intermixed, the pleasure garden being merely a highly-ornamented walk through and round the divisions of the farm and kitchen garden.

Caversham.—Sold by Lord Cadogan to Major Marsac. Twenty-five acres of garden, four hundred acres of park, six acres of kitchen garden. A large lawn, separated by a sunk fence from the garden, appears to be part of it. A straight, broad gravel walk passes before the front and parallel to it, terminated on the right by a Doric temple, and opening at the other end on a fine prospect. This straight walk has an ill effect. The lawn in front, which is pasture, well disposed with clumps of trees.

Wotton.—Now belongs to the Marquis of Buckingham, son of George Grenville. The lake covers fifty acres, the river five acres, the basin fifteen acres, the little river two acres—equal to seventy-two acres of water. The lake and great river are on a level, they fall into the basin five feet below, and that again into the little river five feet lower. These waters lie in form of an L: the house is in middle of open side, fronting the angle. A walk goes round the whole, three miles in circumference, and containing within it about three hundred acres: sometimes it passes close to the water, sometimes so far off as to leave large pasture grounds between it and the water. But two hands to keep the pleasure grounds in order; much neglected. The water affords two thousand brace of carp a year. There is a Palladian bridge, of which, I think, Whateley does not speak.

Stowe.—Belongs to the Marquis of Buckingham, son of George Grenville, and who takes it from Lord Temple. Fifteen men and eighteen boys employed in keeping pleasure grounds. Within the walk are considerable portions separated by inclosures and used for pasture. The Egyptian pyramid is almost entirely taken down by the late Lord Temple, to erect a building there, in commemoration of Mr. Pitt, but he died before beginning it, and nothing is done to it yet. The grotto and two rotundas are taken away. There are four levels of water, receiving it one from the other. The basin contains seven acres, the lake below that ten acres. Kent's building is called the temple of Venus. The inclosure is entirely by ha-ha. At each end of the front line there is a recess like the bastion of a fort. In one of these is the temple of Friendship, in the other the temple of Venus. They are seen the one from the other, the line of sight passing, not through the garden, but through the country parallel to the line of the garden. This has a good effect. In the approach to Stowe, you are brought a mile through a straight avenue, pointing to the Corinthian arch and to the house, till you get to the arch, then you turn short to the right. The straight approach is very ill. The Corinthian arch has a very useless appearance, inasmuch as it has no pretension to any destination. Instead of being an object from the house, it is an obstacle to a very pleasing distant prospect. The Grecian valley being clear of trees, while the hill on each side is covered with them, is much deepened to appearance.

Leasowes, in Shropshire.—Now the property of Mr. Horne by purchase. One hundred and fifty acres within the walk. Tl waters small. This is not even an ornamented farm—it is only a grazing farm with a path round it, here and there a seat of board, rarely anything better. Architecture has contributed nothing. The obelisk is of brick. Shenstone had but three hundred pounds a year, and ruined himself by what he did to this farm. It is said that he died of the heart-aches which his debts occasioned him. The part next the road is of red earth, that on the further part gray. The first and second cascades are beautiful. The landscape at number eighteen, and prospect at thirty-

two, are fine. The walk through the wood is umbrageous and pleasing. The whole arch of prospect may be of ninety degrees. Many of the inscriptions are lost.

Hagley, now Lord Weszot's.—One thousand acres: no distinction between park and garden—both blended, but more of the character of garden. Eight or nine laborers keep it in order. Between two and three hundred deer in it, some few of them red deer. They breed sometimes with the fallow. This garden occupying a descending hollow between the Clent and Witchbury hills, with the spurs from those hills, there is no level in it for a spacious water. There are, therefore, only some small ponds. From one of these there is a fine cascade; but it can only be occasionally, by opening the sluice. This is in a small, dark, deep hollow, with recesses of stone in the banks on every side. In one of these is a Venus predique, turned half round as if inviting you with her into the recess. There is another cascade seen from the portico on the bridge. The castle is triangular, with a round tower at each angle, one only entire; it seems to be between forty and fifty feet high. The ponds yield a great deal of trout. The walks are scarcely gravelled.

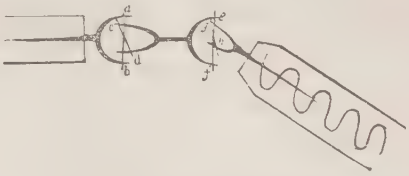
Blenheim.—Twenty-five hundred acres, of which two hundred is garden, one hundred and fifty water, twelve kitchen garden, and the rest park. Two hundred people employed to keep it in order, and to make alterations and additions. About fifty of these employed in pleasure grounds. The turf is mowed once in ten days. In summer, about two thousand fallow deer in the park, and two or three thousand sheep. The palace of Henry II. was remaining till taken down by Sarah, widow of the first Duke of Marlborough. It was on a round spot levelled by art, near what is now water, and but a little above it. The island was a part of the high road leading to the palace. Rosamond's bower was near where is now a little grove, about two hundred yards from the palace. The well is near where the bower was. The water here is very beautiful, and very grand. The cascade from the lake, a fine one; except this the garden has no great beauties. It is not laid out in fine lawns and woods, but the trees are scattered thinly over the ground, and every

here and there small thickets of shrubs, in oval raised beds, cultivated, and flowers among the shrubs. The gravelled walks are broad—art appears too much. There are but a few seats in it, and nothing of architecture more dignified. There is no one striking position in it. There has been a great addition to the length of the river since Whateley wrote.

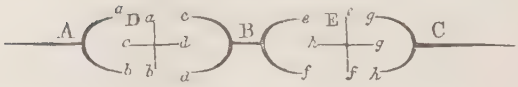
Enfield Chase.—One of the four lodges. Garden about sixty acres. Originally by Lord Chatham, now in the tenure of Dr. Beaver, who married the daughter of Mr. Sharpe. The lease lately renewed—not in good repair. The water very fine; would admit of great improvement by extending walks, &c., to the principal water at the bottom of the lawn.

Moor Park.—The lawn about thirty acres. A piece of ground up the hill of six acres. A small lake. Clumps of spruce firs. Surrounded by walk—separately inclosed—destroys unity. The property of Mr. Rous, who bought of Sir Thomas Dundas. The building superb; the principal front a Cornthian portico of four columns; in front of the wings a colonnade, Ionic, subordinate. Back front a terrace, four Corinthian pilasters. Pulling down wings of building; removing deer; wants water.

Kew.—Archimedes' screw for raising water. A horizontal shaft made to turn the oblique one of the screw by a patent machinery of this form:



The pieces separate.



A is driven by its shank into the horizontal axis of the wheel which turns the machine.

B is an intermediate iron to connect the motion of A and C.

C is driven by its shank into the axis of the screw.

D is a cross axis, the ends, *a* and *b*, going into the corresponding holes *a* and *b* of the iron A, and the ends, *c* and *d*, going into the corresponding holes *c* and *d* of the iron B.

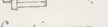
E is another cross axis, the ends, *e* and *f*, going into the corresponding holes *e* and *f* of the iron B, and the ends, *g* and *h*, going into the corresponding holes *g* and *h* of the iron C.

XIII.

Memorandums on a Tour from Paris to Amsterdam, Strasburg, and back to Paris.—March 3d, 1788.

Amsterdam.—Joists of houses placed, not with their sides horizontally and perpendicularly, but diamond wise, thus: ◇ first, for greater strength; second, to arch between with brick, thus: Windows opening so that they admit air and not rain. The upper sash opens on a horizontal axis, or pins in the centre of the sides, the lower sash slides up.

Manner of fixing a flag staff on the mast of a vessel: *a* is the bolt on which it turns; *b* a bolt which is taken in and out to fasten it or to let it down. When taken out, the lower end of the staff is shoved out of its case, and the upper end being heaviest brings itself down: a rope must have been previously fastened to the butt end, to pull it down again when you want to raise the flag end. Dining tables letting down with single or double leaves, so as to take the room of their thickness only with a single leaf when open, thus: or thus: double-leaves open:

shut, thus: or thus: shut: 

Peat costs about one doit each, or twelve and a half stivers the hundred. One hundred make seven cubic feet, and to keep

a tolerably comfortable fire for a study or chamber, takes about six every hour and a half.

A machine for drawing light *empty* boats over a dam at Amsterdam. It is an axis in peritrochio fixed on the dam. From the dam each way is a sloping stage, the boat is presented to this, the rope of the axis made fast to it, and it is drawn up. The water on one side of the dam is about four feet higher than on the other.

The camels used for lightening ships over the Pampus will raise the ships eight feet. There are beams passing through the ship's sides, projecting to the off side of the camel and resting on it; of course that alone would keep the camel close to the ship. Besides this, there are a great number of windlasses on the camels, the ropes of which are made fast to the gunwale of the ship. The camel is shaped to the ship on the near side, and straight on the off one. When placed along side, water is let into it so as nearly to sink it; in this state it receives the beams, &c., of the ship, and then the water is pumped out.

Wind saw mills. See the plans detailed in the moolen book which I bought. A circular foundation of brick is raised about three or four feet high, and covered with a curb or sill of wood, and has little rollers under its sill which make it turn easily on the curb. A hanging bridge projects at each end about fifteen or twenty feet beyond the circular area, thus: horizontally, and thus: in the profile to increase the play of the timbers on the frame. The wings are at one side, as at *a*; there is a shelter over the hanging bridges, but of plank with scarce any frame, very light.

A bridge across a canal formed by two scows, which open each to the opposite shore and let boats pass.

A lanthern over the street door, which gives light equally into the antechamber and the street. It is a hexagon, and occupies the place of the middle pane of glass in the circular top of the street door.

A bridge on a canal, turning on a swivel, by which means it

is arranged along the side of the canal so as not to be in the way of boats when not in use. When used, it is turned across the canal. It is, of course, a little more than double the width of the canal.

Hedges of beach, which, not losing the old leaf till the new bud pushes it off, has the effect of an evergreen as to cover.

Mr. Ameshoff, merchant at Amsterdam. The distribution of his aviary is worthy of notice. Each kind of the large birds has its coop eight feet wide and four feet deep; the middle of the front is occupied by a broad glass window, on one side of which is a door for the keeper to enter at, and on the other a little trap-door for the birds to pass in and out. The floor strewed with clean hay. Before each coop is a court of eight by sixteen feet, with wire in front and netting above, if the fowls be able to fly. For such as require it, there are bushes of evergreen growing in their court for them to lay their eggs under. The coops are frequently divided into two stories: the upper for those birds which perch, such as pigeons, &c., the lower for those which feed on the ground, as peasants, partridges, &c. The court is in common for both stories, because the birds do no injury to each other. For the water-fowl there is a pond of water passing through the courts, with a movable separation. While they are breeding they must be separate, afterwards they may come together. The small birds are some of them in a common aviary, and some in cages.

The Dutch wheel-barrow is in this form: which is very convenient for loading and unloading.

Mr. Hermen Hend Damen, merchant-broker of Amsterdam, tells me that the emigrants to America come from the Palatinate down the Rhine, and take shipping from Amsterdam. Their passage is ten guineas if paid here, and eleven if paid in America. He says they might be had in any number to go to America, and settle lands as tenants on half stocks or metairies. Perhaps they would serve their employer one year as an indemnification for the passage, and then be bound to remain on his lands seven years. They would come to Amsterdam at their own expense.

He thinks they would employ more than fifty acres each; but *quære*, especially if they have fifty acres for their wife also?

Hodson.—The best house. Stadhonderian, his son, in the government. Friendly, but old and very infirm.

Hope.—The first house in Amsterdam. His first object England; but it is supposed he would like to have the American business also, yet he would probably make our affairs subordinate to those of England.

Vollenhoven.—An excellent old house; connected with no party.

Sapportus.—A brother, very honest and ingenuous, well-disposed; acts for Hope, but will say with truth what he can do for us. The best person to consult with as to the best house to undertake a piece of business. He has brothers in London in business. Jacob Van Staphorst tells me there are about fourteen millions of florins, new money, placed in loans in Holland every year, being the savings of individuals out of their annual revenue, &c. Besides this, there are every year reimbursements of old loans from some quarter or other to be replaced at interest in some new loan.

1788. March 16th. Baron Steuben has been generally suspected of having suggested the first idea of the self-styled Order of Cincinnati. But Mr. Adams tells me, that in the year 1776 he had called at a tavern in the State of New York to dine, just at the moment when the British army was landing at Frog's Neck. Generals Washington, Lee, Knox and Parsons, came to the same tavern. He got into conversation with Knox. They talked of ancient history—of Fabius, who used to raise the Romans from the dust; of the present contest, &c.; and General Knox, in the course of the conversation, said he should wish for some ribbon to wear in his hat, or in his button hole, to be transmitted to his descendants as a badge and a proof that he had fought in defence of their liberties. He spoke of it in such precise terms, as showed he had revolved it in his mind before. Mr. Adams says he and Knox were standing together in the door of the tavern, and does not recollect whether General Washington and the others were near enough to hear the conversation, or

were even in the room at that moment. Baron Steuben did not arrive in America till above a year after that. Mr. Adams is now fifty-three years old, *i. e.* nine years more than I am.

It is said this house will cost four tons of silver, or forty thou-

HOPE'S HOUSE, NEAR HARLAEM.

sand pounds sterling. The separation between the middle building and wings in the upper story has a capricious appearance, yet a pleasing one. The right wing of the house (which is the left in the plan) extends back to a great length, so as to make the ground plan in the form of an L. The parapet has a pannel of wall, and a pannel of ballusters alternately, which lighten it. There is no portico, the columns being backed against the wall of the front.

March 30th, 31st. *Amsterdam. Utrecht. Nimeguen.* The lower parts of the low countries seem partly to have been gained from the sea, and partly to be made up of the plains of the Yssel, the Rhine, the Maese and the Schelde united. To Utrecht nothing but plains are seen, a rich black mould, wet, lower than the level of the waters which intersect it; almost entirely in grass; few or no farm-houses, as the business of grazing requires few laborers. The canal is lined with country houses, which bespeak the wealth and cleanliness of the country; but generally in an uncouth state, and exhibiting no regular architecture. After passing Utrecht, the hills north-east of the Rhine come into view, and gather in towards the river, till at Wyck Durstede they are within three or four miles, and at Amelengen they join the

river. The plains, after passing Utrecht, become more sandy; the hills are very poor and sandy, generally waste in broom, sometimes a little corn. The plains are in corn, grass, and willow. The plantations of the latter are immense, and give it the air of an uncultivated country. There are now few châteaux; farm-houses abound, built generally of brick, and covered with tile or thatch. There are some apple-trees, but no forest; a few inclosures of willow wattling. In the gardens are hedges of beach, one foot apart, which, not losing its old leaves till they are pushed off in the spring by the young ones, gives the shelter of evergreens. The Rhine is here about three hundred yards wide, and the road to Nimeguen passing it a little below Wattelingen, leaves Hetern in sight on the left. On this side, the plains of the Rhine, the Ling, and the Waal unite. The Rhine and Waal are crossed on vibrating boats, the rope supported by a line of seven little barks. The platform by which you go on to the ferry-boat is supported by boats. The view from the hill at Cress is sublime. It commands the Waal, and extends far up the Rhine. That also up and down the Waal from the Bellevue of Nimeguen, is very fine. The château here is pretended to have lodged Julius Cæsar. This is giving it an antiquity of at least eighteen centuries, which must be apocryphal. Some few sheep to-day, which were feeding in turnip patches.

April 1st. *Cranenburg. Cleves. Santen. Reynberg. Hoogstraat.* The transition from ease and opulence to extreme poverty is remarkable on crossing the line between the Dutch and Prussian territories. The soil and climate are the same; the governments alone differ. With the poverty, the fear also of slaves is visible in the faces of the Prussian subjects. There is an improvement, however, in the physiognomy, especially could it be a little brightened up. The road leads generally over the hills, but sometimes through skirts of the plains of the Rhine. These are always extensive and good. They want manure, being visibly worn down. The hills are almost always sandy, barren, uncultivated, and insusceptible of culture, covered with broom and moss; here and there a little indifferent forest, which is sometimes of beach. The plains are principally in corn; some

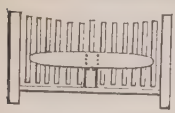
grass and willow. There are no châteaux, nor houses that bespeak the existence even of a middle class. Universal and equal poverty overspreads the whole. In the villages, too, which seem to be falling down, the over-proportion of women is evident. The cultivators seem to live on their farms. The farm-houses are of mud, the better sort of brick; all covered over with thatch. Cleves is little more than a village. If there are shops or magazines of merchandise in it, they show little. Here and there at a window some small articles are hung up within the glass. The goose-berry beginning to leaf.

April 2d. Passed the Rhine at *Essenberg*. It is there about a quarter of a mile wide, or five hundred yards. It is crossed in a scow with sails. The wind being on the quarter, we were eight or ten minutes only in the passage. Duysberg is but a village in fact, walled in; the buildings mostly of brick. No new ones, which indicate a thriving state. I had understood that near that were remains of the encampment of Varus, in which he and his legions fell by the arms of Arminius (in the time of Tiberius I think it was), but there was not a person to be found in Duysberg who could understand either English, French, Italian, or Latin. So I could make no inquiry.

From *Duysberg* to *Dusseldorf* the road leads sometimes over the hills, sometimes through the plains of the Rhine, the quality of which are as before described. On the hills, however, are considerable groves of oak, of spontaneous growth, which seem to be of more than a century; but the soil being barren, the trees, though high, are crooked and knotty. The undergrowth is broom and moss. In the plains is corn entirely. As they are become rather sandy for grass, there are no inclosures on the Rhine at all. The houses are poor and ruinous, mostly of brick, and scantling mixed. A good deal of grape cultivated.

Dusseldorf. The gallery of paintings is sublime, particularly the room of Vanderwerff. The plains from Dusseldorf to Cologne are much more extensive, and go off in barren downs at some distance from the river. These downs extend far, according to appearance. They are manuring the plains with lime. A gate

at the Elector's château on this road in this form. We cross at



Cologne on a pendulum boat. I observe the hog of this country (Westphalia), of which the celebrated ham is made, is tall, gaunt, and with heavy lop ears. Fatted at a year old, would weigh one hundred or one hundred and twenty pounds. At two years old, two hundred pounds. Their principal food is acorns. The pork, fresh, sells at two and a half pence sterling the pound. The hams, ready made, at eight and a half pence sterling the pound. One hundred and six pounds of this country is equal to one hundred pounds of Holland. About four pounds of fine Holland salt is put on one hundred pounds of pork. It is smoked in a room which has no chimney. Well-informed people here tell me there is no other part of the world where the bacon is smoked. They do not know that we do it. Cologne is the principal market of exportation. They find that the small hog makes the sweetest meat.

Cologne is a sovereign city, having no territory out of its walls. It contains about sixty thousand inhabitants; appears to have much commerce, and to abound with poor. Its commerce is principally in the hands of Protestants, of whom there are about sixty houses in the city. They are extremely restricted in their operations, and otherwise oppressed in every form by the government, which is Catholic, and excessively intolerant. Their Senate, some time ago, by a majority of twenty-two to eighteen, allowed them to have a church; but it is believed this privilege will be revoked. There are about two hundred and fifty Catholic churches in the city. The Rhine is here about four hundred yards wide. This city is in 51° latitude, wanting about 6′. Here the vines begin, and it is the most northern spot on the earth on which wine is made. Their first grapes came from Orleans, since that from Alsace, Champagne, &c. It is thirty-two years only since the first vines were sent from Cassel, near Mayence, to the Cape of Good Hope, of which the Cape wine is now made. Afterwards new supplies were sent from the same quarter. That I suppose is the most southern spot on the globe where wine is made, and it is singular that the same vine

should have furnished two wines as much opposed to each other in quality as in situation. I was addressed here by Mr. Damen, of Amsterdam, to Mr. Jean Jaques Peuchen, of this place, Merchant.

April 4th. *Cologne. Bonne. Andernach. Coblentz.* I saw many walnut trees to-day in the open fields. It would seem as if this tree and wine required the same climate. The soil begins now to be reddish, both on the hills and in the plains. Those from Cologne to Bonne extend about three miles from the river on each side; but a little above Bonne they become contracted, and continue from thence to be from one mile to nothing, comprehending both sides of the river. They are in corn, some clover and rape, and many vines. These are planted in rows three feet apart both ways. The vine is left about six or eight feet high, and stuck with poles ten or twelve feet high. To these poles they are tied in two places, at the height of about two and four feet. They are now performing this operation. The hills are generally excessively steep, a great proportion of them barren; the rest in vines principally, sometimes small patches of corn. In the plains, though rich, I observed they dung their vines plentifully; and it is observed here, as elsewhere, that the plains yield much wine, but bad. The good is furnished from the hills. The walnut, willow, and apple tree beginning to leaf.

Andernach is the port on the Rhine to which the famous mill-stones of Cologne are brought; the quarry, as some say, being at Mendich, three or four leagues from thence. I suppose they have been called Cologne mill-stones, because the merchants of that place having the most extensive correspondence, have usually sent them to all parts of the world. I observed great collections of them at Cologne. This is one account.

April 5. *Coblentz. Nassau.* Another account is, that these stones are cut at Triers and brought down the Moselle. I could not learn the price of them at the quarry; but I was shown a grind-stone of the same stone, five feet diameter, which cost at Triers six florins. It was of but half the thickness of a mill-stone. I supposed, therefore, that two mill-stones would cost

about as much as three of these grind-stones, *i. e.* about a guinea and a half. This country abounds with slate.

The best Moselle wines are made about fifteen leagues from hence, in an excessively mountainous country. The first quality (without any comparison) is that made on the mountain of Brownberg, adjoining to the village of Dusmond; and the best crops is that of the Baron Breidbach Burrhesheim, grand chambellan et grand Baillif de Coblentz. His Receveur, of the name of Mayer, lives at Dusmond. The last fine year was 1783, which sells now at fifty louis the foudre, which contains six aumes of one hundred and seventy bottles each, equal about one thousand one hundred and ten bottles. This is about twenty-two sous Tournois the bottle. In general, the Baron Burresheim's crops will sell as soon as made, say at the vintage, for one hundred and thirty, one hundred and forty, and one hundred and fifty ecus the foudre (the ecu is one and a half florin of Holland), say two hundred. 2. Vialen is the second quality, and sells new at one hundred and twenty ecus the foudre. 3. Crach-Bispost is the third, and sells for about one hundred and five ecus. I compared Crach of 1783 with Baron Burrhesheim's of the same year. The latter is quite clear of acid, stronger, and very sensibly the best. 4. Selting, which sells at one hundred ecus. 5. Kous-Berncastle, the fifth quality, sells at eighty or ninety. After this there is a gradation of qualities down to thirty ecus. These wines must be five or six years old before they are quite ripe for drinking. One thousand plants yield a foudre of wine a year in the most plentiful vineyards. In other vineyards, it will take two thousand or two thousand and five hundred plants to yield a foudre. The culture of one thousand plants costs about one louis a year. A day's labor of a man is paid in winter twenty kreitzers (*i. e.* one-third of a florin), in summer twenty-six; a woman's is half that. The red wines of this country are very indifferent, and will not keep. The Moselle is here from one hundred to two hundred yards wide; the Rhine three hundred to four hundred. A jessamine in the Count de Moustier's garden in leaf.

In the Elector of Treves' palace at *Coblentz*, are large rooms

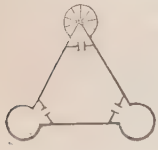
very well warmed by warm air conveyed from an oven below, through tubes which open into the rooms. An oil and vinegar cruet in this form: At Coblentz we pass the river on a pendulum boat, and the road to Nassau is over tremendous hills, on which is here and there a little corn, more vines, but mostly barren. In some of these barrens are forests of beach and oak, tolerably large, but crooked and knotty; the undergrowth beach brush, broom, and moss. The soil of the plains, and of the hills where they are cultivable, is reddish. Nassau is a village the whole rents of which should not amount to more than a hundred or two guineas. Yet it gives the title of Prince to the house of Orange to which it belongs.

April 6th. *Nassau. Schwelbach. Wisbaden. Hocheim. Frankfort.* The road from Nassau to Schwelbach is over hills, or rather mountains, both high and steep; always poor, and above half of them barren in beach and oak. At Schwelbach there is some chesnut. The other parts are either in winter grain, or preparing for that of the spring. Between Schwelbach and Wisbaden we come in sight of the plains of the Rhine, which are very extensive. From hence the lands, both high and low, are very fine, in corn, vines, and fruit trees. The country has the appearance of wealth, especially in the approach to Frankfort.

April 7th. *Frankfort.* Among the poultry, I have seen no turkies in Germany till I arrive at this place. The Stork, or Crane, is very commonly tame here. It is a miserable, dirty, ill-looking bird. The Lutheran is the reigning religion here, and is equally intolerant to the Catholic and Calvinist, excluding them from the free corps.

April 8th. *Frankfort. Hanau.* The road goes through the plains of the Maine, which are mulatto, and very fine. They are well cultivated till you pass the line between the republic and the landgraviate of Hesse, when you immediately see the effect of the difference of government, notwithstanding the tendency which the neighborhood of such a commercial town as

Frankfort has to counteract the effects of tyranny in its vicinities, and to animate them in spite of oppression. In Frankfort all is life, bustle, and motion; in Hanau the silence and quiet of the mansions of the dead. Nobody is seen moving in the streets; every door is shut; no sound of the saw, the hammer, or other utensil of industry. The drum and fife is all that is heard. The streets are cleaner than a German floor, because nobody passes them. At Williamsbath, near Hanau, is a country seat of the Landgrave. There is a ruin which is clever. It presents the remains of an old castle. The ground plan is in this form: The upper story in this: A circular room of thirty-one and a half feet diameter within. The four little square towers at the corners finish at the floor of the upper story, so as to be only platforms to walk out on. Over the circular room is a platform also, which is covered by the broken parapet which once crowned the top, but is now fallen off some parts, whilst the other parts remain. I like better, however, the form of the ruin at Hagley, in England, which was thus a centry box here, covered over with bark, so as to look exactly like the trunk of an old tree. This is a good idea; and may be of much avail in a garden. There is a hermitage in which is a good figure of a hermit in plaster, colored to the life, with a table and book before him, in the attitude of reading and contemplation. In a little cell is his bed; in another his books, some tools, &c.; in another his little provision of firewood, &c. There is a monument erected to the son of the present landgrave, in the form of a pyramid, the base of which is eighteen and a half feet. The side declines from the perpendicular about twenty-one and a half degrees. An arch is carried through it both ways so as present a door in each side. In the middle of this, at the crossing of the two arches, is a marble monument with this inscription: "ante tempus." He died at twelve years of age. Between Hanau and Frankfort, in sight of the road, is the village of Bergen, where was fought the bat-



tle of Bergen in the war before last. Things worth noting here are: 1. A folding ladder. 2. Manner of packing china cups and saucers, the former in a circle within the latter. 3. The marks of different manufactures of china, to wit: Dresden with two swords. Hecks with a wheel with W, Frankendaal with (for Charles Theodore), and a over it. Berlin with 4. The top rail of a wagon supported by the washers on the ends of the axle-trees.

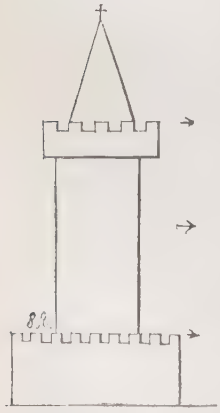
April 10th. *Frankfort. Hocheim. Mayence.* The little tyrants round about having disarmed their people, and made it very criminal to kill game, one knows when they quit the territory of Frankfort by the quantity of game which is seen. In the Republic, everybody being allowed to be armed, and to hunt on their own lands, there is very little game left in its territory. The hog hereabouts resembles extremely the little hog of Virginia. Round like that, a small head, and short upright ears. This makes the ham of Mayence so much esteemed at Paris.

We cross the Rhine at Mayence on a bridge one thousand eight hundred and forty feet long, supported by forty-seven boats. It is not in a direct line, but curved up against the stream; which may strengthen it if the difference between the upper and lower curve be sensible, if the planks of the floor be thick, well jointed together, and forming sectors of circles, so as to act on the whole as the stones of an arch. But it has by no means this appearance. Near one end, one of the boats has an axis in peritrochio, and a chain, by which it may be let drop down stream some distance, with the portion of the floor belonging to it, so as to let a vessel through. Then it is wound up again into place, and to consolidate it the more with the adjoining parts, the loose section is a little higher, and has at each end a folding stage, which folds back on it when it moves down, and when brought up again into place, these stages are folded over on the bridge. This whole operation takes but four or five minutes. In the winter the bridge is taken away entirely, on ac-

count of the ice. And then everything passes on the ice, through the whole winter.

April 11th. *Mayence. Rudesheim. Johansberg. Markebrom.* The women do everything here. They dig the earth, plough, saw, cut and split wood, row, tow the batteaux, &c. In a small but dull kind of batteau, with two hands rowing with a kind of large paddle, and a square sail, but scarcely a breath of wind, we went down the river at the rate of five miles an hour, making it three and a half hours to Rudesheim. The floats of wood which go with the current only, go one mile and a half an hour. They go night and day. There are five boat-mills abreast here. Their floats seem to be about eight feet broad. The Rhine yields salmon, carp, pike, and perch, and the little rivers running into it yield speckled trout. The plains from Maintz to Rudesheim are good and in corn; the hills mostly in vines. The banks of the river are so low that, standing up in the batteau, I could generally see what was in the plains. Yet they are seldom overflowed.

Though they begin to make wine, as has been said, at Cologne, and continue it up the river indefinitely, yet it is only from Rudesheim to Hocheim that wines of the very first quality are made. The river happens there to run due east and west, so as to give its hills on that side a southern aspect. And even in this canton, it is only Hocheim, Johansberg, and Rudesheim, that are considered as of the very first quality. Johansberg is a little mountain (berg signifies mountain), whereon is a religious house, about fifteen miles below Mayence, and near the village of Vingel. It has a southern aspect, the soil a barren mulatto clay, mixed with a good deal of stone, and some slate. This wine used to be but on a par with Hocheim and Rudesheim; but the place having come to the Bishop of Fulda, he improved its culture so as to render it stronger; and since the year 1775, it sells at double the price of the other two.



A TOWER AT RUDESHEIM.

It has none of the acid of the Hocheim and other Rhenish wines. There are about sixty tons made in a good year, which sell, as soon as of a drinkable age, at one thousand franks each. The tun here contains seven and a-half aumes of one hundred and seventy bottles each. Rudesheim is a village of about eighteen or twenty miles below Mayence. Its fine wines are made on the hills about a mile below the village, which look to the south, and on the middle and lower parts of them. They are terraced. The soil is gray, about one-half of slate and rotten stone, the other half of barren clay, excessively steep. Just behind the village also is a little spot, called Hinder House, belonging to the Counts of Sicken and Oschstein, whereon each makes about a ton of wine of the very first quality. This spot extends from the bottom to the top of the hill. The vignerons of Rudesheim dung their wines about once in five or six years, putting a one-horse tumbrel load of dung on every twelve feet square. One thousand plants yield about four aumes in a good year. The best crops are,

The Chanoines of Mayence, who make	15	pieces of 7½	aumes.
Le Comte de Sicken	6	"	"
Le Comte d'Oschstein	9	"	"
L'Electeur de Mayence	6	"	"
Le Comte de Meternisch	6	"	"
Monsieur de Boze	5	"	"
M. Ackerman, baliff et aubergiste des 3 couronnes	8	"	"
M. Ackerman le fils, aubergiste à la couronne	5	"	"
M. Lynn, aubergiste de l'ange	5	"	"
Baron de Wetzel	7	"	"
Convent de Mariahousen, des religieuses Benedictines	7	"	"
M. Johan Yung	8	"	"
M. de Rieden	5	"	"
	92		

These wines begin to be drinkable at about five years old. The proprietors sell them old or young, according to the prices offered, and according to their own want of money. There is always a little difference between different casks, and therefore when you choose and buy a single cask, you pay three, four, five or six hundred florins for it. They are not at all acid, and to my taste much preferable to Hocheim, though but of the same price. Hocheim is a village about three miles above Mayence, on the Maine, where it empties into the Rhine. The spot

whereon the good wine is made is the hill side from the church down to the plain, a gentle slope of about a quarter of a mile wide, and extending half a mile towards Mayence. It is of south-western aspect, very poor, sometimes gray, sometimes mulatto, with a moderate mixture of small broken stone. The wines are planted three feet apart, and stuck with sticks about six feet high. The wine, too, is cut at that height. They are dunged once in three or four years. One thousand plants yield from one to two aumes a year: they begin to yield a little at three years old, and continue to one hundred years, unless sooner killed by a cold winter. Dick, keeper of the Rothen-house tavern at Frankfort, a great wine merchant, who has between three and four hundred tons of wine in his cellars, tells me that Hocheim of the year 1783, sold, as soon as it was made, at ninety florins the aume, Rudesheim of the same year, as soon as made, at one hundred and fifteen florins, and Markebronn seventy florins. But a peasant of Hocheim tells me that the best crops of Hocheim in the good years, when sold new, sell but for about thirty-two or thirty-three florins the aume; but that it is only the poorer proprietors who sell new. The fine crops are,

Count Ingleheim about....	10	tuns.	All of these keep till about fifteen years old, before they sell, unless they are offered a very good price sooner.
Baron d'Alberg.....	8	"	
Count Schimbon.....	14	"	
The Chanoines of Mayence.	18	"	
Counsellor Schik de Vetsler	15	"	
Convent of Jacobsberg.....	8	"	
The Chanoine of Fechbach.	10	"	
The Carmelites of Frankfort	8	"	Who only sell by the bottle in their own tavern in Frankfort.
The Bailiff of Hocheim.....	11	"	Who sells at three or four years old.
Zimmerman, a bourgeois...	4	"	These being poor, sell new.
Feldman, a carpenter.....	2	"	

Markebronn (bronn signifies a spring, and is probably of affinity with the Scotch word, burn) is a little canton in the same range of hills, adjoining to the village of Hagenheim, about three miles above Johansberg, subject to the elector of Mayence. It is a sloping hill side of southern aspect, mulatto, poor, and mixed with some stone. This yields wine of the second quality.

April 12th. *Mayence. Oppenheim. Dorms. Manheim.* On the road between Mayence and Oppenheim are three cantons, which are also esteemed as yielding wines of the second quality. These are Laudenheim, Bodenheim, and Nierstein. Laudenheim is a village about four or five miles from Mayence. Its wines are made on a steep hill side, the soil of which is gray, poor and mixed with some stone. The river there happens to make a short turn to the south-west, so as to present its hills to the south-east. Bodenheim is a village nine miles, and Nierstein another about ten or eleven miles from Mayence. Here, too, the river is north-east and south-west, so as to give the hills between these villages a south-east aspect; and at Thierstein, a valley making off, brings the face of the hill round to the south. The hills between these villages are almost perpendicular, of a vermilion red, very poor, and having as much rotten stone as earth. It is to be observed that these are the only cantons on the south side of the river which yield good wine, the hills on this side being generally exposed to the cold winds, and turned from the sun. The annexed bill of prices current, will give an idea of the estimation of these wines respectively.

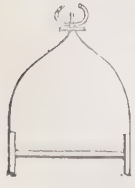
With respect to the grapes in this country, there are three kinds in use for making white wine, (for I take no notice of the red wines, as being absolutely worthless.) 1. The Klemperien, of which the inferior qualities of Rhenish wines are made, and is cultivated because of its hardness. The wines of this grape descend as low as one hundred florins the tun of eight aumes. 2. The Rhysslin grape, which grows only from Hocheim down to Rudesheim. This is small and delicate, and therefore succeeds only in this chosen spot. Even at Rudesheim it yields a fine wine only in the little spot called Hinder House, before mentioned; the mass of good wines made at Rudesheim, below the village, being of the third kind of grape, which is called the Orleans grape.

To Oppenheim the plains of the Rhine and Maine are united. From that place we see the commencement of the Berg-strasse, or mountains which separate at first the plains of the Rhine and Maine, then cross the Neckar at Heidelberg, and from thence

forms the separation between the plains of the Neckar and Rhine, leaving those of the Rhine about ten or twelve miles wide. These plains are sometimes black, sometimes mulatto, always rich. They are in corn, potatoes, and some willow. On the other side again, that is, on the west side, the hills keep at first close to the river. They are about one hundred and fifty, or two hundred feet high, sloping, red, good, and mostly in vines. Above Oppenheim, they begin to go off till they join the mountains of Lorraine and Alsace, which separate the waters of the Moselle and Rhine, leaving to the whole valley of the Rhine about twenty or twenty-five miles breadth. About Worms these plains are sandy, poor, and often covered only with small pine.

April 13th. *Manheim.* There is a bridge over the Rhine here, supported on thirty-nine boats, and one over the Neckar on eleven boats. The bridge over the Rhine is twenty-one and a half feet wide from rail to rail. The boats are four feet deep, fifty-two feet long, and nine feet eight inches broad. The space between boat and boat is eighteen feet ten inches. From these data the length of the bridge should be 9ft. 8in. + 18ft. 10in. × 40 = 1140 feet. In order to let vessels pass through, two boats well framed together, with their flooring, are made to fall down stream together. Here, too, they make good ham. It is fattened on round potatoes and Indian corn. The farmers smoke what is for their own use in their chimneys. When it is made for sale, and in greater quantities than the chimney will hold, they make the smoke of the chimney pass into an adjoining loft, or apartment, from which it has no issue; and here they hang their hams.

An economical curtain bedstead. The bedstead is seven feet by four feet two inches. From each leg there goes up an iron rod three-eighths of an inch in diameter. Those from the legs at



the foot of the bed meeting at top as in the margin, and those from the head meeting in like manner, so that the two at the foot form one point, and the two at the head another. On these points lays an oval iron rod, whose long diameter is five feet, and short one three feet one inch. There is a hole

through this rod at each end, by which it goes on firm on the point of the upright rods. Then a nut screws it down firmly. Ten breadths of stuff two feet ten inches wide, and eight feet six inches long, form the curtains. There is no top nor vallons. The rings are fastened within two and a half or three inches of the top on the inside, which two and a half or three inches stand up, and are an ornament somewhat like a ruffle.

I have observed all along the Rhine that they make the oxen draw by the horns. A pair of very handsome chariot horses, large, bay, and seven years old, sell for fifty louis. One pound of beef sells for eight kreitzers, (*i. e.* eight sixtieths of a florin;) one pound of mutton or veal, six kreitzers; one pound of pork, seven and a half kreitzers; one pound of ham, twelve kreitzers; one pound of fine wheat bread, two kreitzers; one pound of butter, twenty kreitzers; one hundred and sixty pounds of wheat, six francs; one hundred and sixty pounds of maize, five francs; one hundred and sixty pounds of potatoes, one franc; one hundred pounds of hay, one franc; a cord of wood (which is 4 4 and 6 feet), seven francs; a laborer by the day receives twenty-four kreitzers, and feeds himself. A journee or arpent of land (which is eight by two hundred steps), such as the middling plains of the Rhine, will sell for two hundred francs. There are more soldiers here than other inhabitants, to wit: six thousand soldiers and four thousand males of full age of the citizens, the whole number of whom is reckoned at twenty thousand.

April 14th. *Manheim. Dossenheim. Heidelberg. Schwetzingen Manheim.* The elector placed, in 1768, two males and five females of the Angora goat at Dossenheim, which is at the foot of the Bergstrasse mountains. He sold twenty-five last year, and has now seventy. They are removed into the mountains four leagues beyond Dossenheim. Heidelberg is on the Neckar just where it issues from the Bergstrasse mountains, occupying the first skirt of plain which it forms. The château is up the hill a considerable height. The gardens lie above the château, climbing up the mountain in terraces. This château is the most noble ruin I have ever seen, having been reduced to that state by the French in the time of Louis XIV., 1693. No-

thing remains under cover but the chapel. The situation is romantic and pleasing beyond expression. It is on a great scale much like the situation of Petrarch's château, at Vaucluse, on a small one. The climate, too, is like that of Italy. The apple, the pear, cherry, peach, apricot, and almond, are all in bloom. There is a station in the garden to which the château re-echoes distinctly four syllables. The famous ton of Heidelberg was new built in 1751, and made to contain thirty foudres more than the ancient one. It is said to contain two hundred and thirty-six foudres of one thousand two hundred bottles each. I measured it, and found its length external to be twenty-eight feet ten inches; its diameter at the end twenty feet three inches; the thickness of the staves seven and a half inches; thickness of the hoops seven and a half inches; besides a great deal of external framing. There is no wine in it now. The gardens at Schwetzingen show how much money may be laid out to make an ugly thing. What is called the English quarter, however, relieves the eye from the straight rows of trees, round and square basins, which constitute the great mass of the garden. There are some tolerable morsels of Grecian architecture, and a good ruin. The Aviary, too, is clever. It consists of cells of about eight feet wide, arranged round, and looking into a circular area of about forty or fifty feet diameter. The cells have doors both of wire and glass, and have small shrubs in them. The plains of the Rhine on this side are twelve miles wide, bounded by the Bergstrasse mountains. These appear to be eight hundred or a thousand feet high; the lower part in vines, from which is made what is called the vin de Nichar; the upper in chesnut. There are some cultivated spots however, quite to the top. The plains are generally mulatto, in corn principally; they are planting potatoes in some parts, and leaving others open for maize and tobacco. Many peach and other fruit trees on the lower part of the mountain. The paths on some parts of these mountains are somewhat in the style represented in the margin.

Manheim. Kaeferthal. Manheim. Just beyond Kaeferthal is an extensive, sandy waste, planted in pine, in which the elec-

tor has about two hundred sangliers, tamed. I saw about fifty; the heavies I am told, would weigh about three hundred pounds. They are fed on round potatoes, and range in the forest of pines. At the village of Kaeferthal is a plantation of rhubarb, begun in 1769 by a private company. It contains twenty arpens or journies, and its culture costs about four or five hundred francs a year; it sometimes employs forty or fifty laborers at a time. The best age to sell the rhubarb at is the fifth or sixth year, but the sale being dull, they keep it sometimes to the tenth year; they find it best to let it remain in the ground. They sell about two hundred kentals a year at two or three francs a pound, and could sell double that quantity from the ground if they could find a market. The apothecaries of Francfort and of England are the principal buyers. It is in beds, resembling lettice-beds; the plants four, five or six feet apart. When dug, a thread is passed through every piece of root, and it is hung separate in a kind of rack; when dry it is rasped; what comes off is given to the cattle.

April 15. *Manheim. Spire. Carlsruhe.* The valley preserves its width, extending on each side of the river about ten or twelve miles, but the soil loses much in its quality, becoming sandy and lean, often barren and overgrown with pine thicket. At Spire is nothing remarkable. Between that and Carlsruhe we pass the Rhine in a common skow with oars, where it is between three and four hundred yards wide. Carlsruhe is the residence of the Margrave of Baden, a sovereign prince. His château is built in the midst of a natural forest of several leagues diameter, and of the best trees I have seen in these countries: they are mostly oak, and would be deemed but indifferent in America. A great deal of money has been spent to do more harm than good to the ground—cutting a number of straight allies through the forest. He has a pheasantry of the gold and silver kind, the latter very tame, but the former excessively shy. A little inclosure of stone, two and a half feet high and thirty feet diameter, in which are two tamed beavers. There is a pond of fifteen feet diameter in the centre, and at each end a little cell for them to retire into, which is stowed with boughs and twigs with leaves on them, which is their principal food. They eat bread also;—twice a

week the water is changed. They cannot get over this wall. Some cerfs of a peculiar kind, spotted like fawns, the horns remarkably long, small and sharp, with few points. I am not sure there were more than two to each main beam, and if I saw distinctly, there came out a separate and subordinate beam from the root of each. Eight angora goats—beautiful animals—all white. This town is only an appendage of the château, and but a moderate one. It is a league from Durlach, half way between that and the river. I observe they twist the flues of their stoves in any form for ornament merely, without smoking, as thus, *e. g.*

April 16. *Carlsruhe. Rastadt. Scholhoven. Bischofheim. Kehl. Strasburg.* The valley of the Rhine still preserves its breadth, but varies in quality; sometimes a rich mulatto loom, sometimes a poor sand, covered with small pine. The culture is generally corn. It is to be noted, that through the whole of my route through the Netherlands and the valley of the Rhine, there is a little red clover every here and there, and a great deal of grape cultivated. The seed of this is sold to be made into oil. The grape is now in blossom. No inclosures. The fruit trees are generally blossoming through the whole valley. The high mountains of the Bergstrasse, as also of Alsace, are covered with snow. Within this day or two, the every-day dress of the country women here is black. Rastadt is a seat also of the Margrave of Baden. Scholhoven and Kehl are in his territory, but not Bischofheim. I see no beggars since I entered his government, nor is the traveller obliged to ransom himself every moment by a chausiee gold. The roads are excellent, and made so, I presume, out of the coffers of the prince. From Cleves till I enter the Margravate of Baden, the roads have been strung with beggars—in Hesse the most, and the road tax very heavy. We pay it cheerfully, however, through the territory of Francfort and thence up the Rhine, because fine gravelled roads are kept up; but through the Prussian, and other parts of the road below Francfort, the roads are only as made by the carriages, there not appearing to have been ever a day's work employed on them. At Strasburgh we pass the Rhine on a wooden bridge.

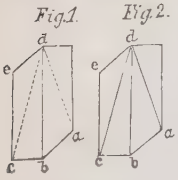
At *Brussels and Antwerp*, the fuel is pit-coal, dug in Brabant. Through all Holland it is turf. From Cleves to Cologne it is pit-coal brought from England. They burn it in open stoves. From thence it is wood, burnt in close stoves, till you get to Strasburg, where the open chimney comes again into use.

April 16th, 17th, 18th. *Strasburg.* The vin de paille is made in the neighborhood of Colmar, in Alsace, about——— from this place. It takes its name from the circumstance of spreading the grapes on straw, where they are preserved till spring, and then made into wine. The little juice then remaining in them makes a rich sweet wine, but the dearest in the world, without being the best by any means. They charge nine florins the bottle for it in the taverns of Strasburg. It is the caprice of wealth alone which continues so losing an operation. This wine is sought because dear; while the better wine of Frontignan is rarely seen at a good table because it is cheap.

Strasburg. Saverne. Phalsbourg. As far as Saverne the country is in waiving hills and hollows; red, rich enough; mostly in small grain, but some vines; a little stone. From Saverne to Phalsbourg we cross a considerable mountain, which takes an hour to rise it.

April 19th. *Phalsbourg. Fenestrange. Moyenvic. Nancy.* Asparagus to-day at Moyenvic. The country is always either mountainous or hilly; red, tolerably good, and in small grain. On the hills about Fenestrange, Moyenvic, and Nancy, are some small vineyards where a bad wine is made. No inclosures. Some good sheep, indifferent cattle, and small horses. The most forest I have seen in France, principally of beech, pretty large. The houses, as in Germany, are of scantling, filled in with wicker and mortar, and covered either with thatch or tiles. The people, too, here as there, are gathered in villages. Oxen plough here with collars and hames. The awkward figure of their mould-board leads one to consider what should be its form. The offices of the mould-board are to receive the sod after the share has cut under it, to raise it gradually, and to reverse it. The fore-end of it then, should be horizontal to enter under the sod, and the hind end perpendicular to throw it over; the intermediate sur-

face changing gradually from the horizontal to the perpendicular. It should be as wide as the furrow, and of a length suited to the construction of the plough. The following would seem a good method of making it: Take a block, whose length, breadth and thickness, is that of your intended mould-board, suppose two and a half feet long and eight inches broad and thick. Draw the lines *a d* and *c d*, figure 1, with a saw, the toothed edge of which is straight, enter at *a* and cut on, guiding the hind part of the saw on the line *a b*, and the fore part on the line *a d*, till the saw reaches the points *c* and *d*, then enter it at *c* and cut on, guiding it by the lines *c b* and *c d* till it reaches the points *b* and *d*. The quarter, *a b c d*, will then be completely cut out, and the diagonal from *d* to *b* laid bare. The piece may now be represented as in figure 2. Then saw in transversely at every two inches till the saw reaches the line *c e*, and the diagonal *b d*, and cut out the pieces with an adze. The upper surface will thus be formed. With a gauge opened to eight inches, and guided by the lines *c e*, scribe the upper edge of the board from *d b*, cut that edge perpendicular to the face of the board, and scribe it of the proper thickness. Then form the underside by the upper, by cutting transversely with the saw and taking out the piece with an adze. As the upper edge of the wing of the share rises a little, the fore end of the board, *b c*, will rise as much from a strict horizontal position, and will throw the hind end, *e d*, exactly as much beyond the perpendicular, so as to promote the reversing of the sod. The women here, as in Germany, do all sorts of work. While one considers them as useful and rational companions, one cannot forget that they are also objects of our pleasures; nor can they ever forget it. While employed in dirt and drudgery, some tag of a ribbon, some ring, or bit of bracelet, earbob or necklace, or something of that kind, will show that the desire of pleasing is never suspended in them. It is an honorable circumstance for man, that the first moment he is at his ease, he allots the internal employments to his female partner, and takes the external on himself. And this circumstance, or its reverse, is a pretty good indication



that a people are, or are not at their ease. Among the Indians, this indication fails from a particular cause: every Indian man is a soldier or warrior, and the whole body of warriors constitute a standing army, always employed in war or hunting. To support that army, there remain no laborers but the women. Here, then, is so heavy a military establishment, that the civil part of the nation is reduced to women only. But this is a barbarous perversion of the natural destination of the two sexes. Women are formed by nature for attentions, not for hard labor. A woman never forgets one of the numerous train of little offices which belong to her. A man forgets often.

April 20th. *Nancy. Toule. Void. Ligny en Barrois. Bar le Duc. St. Dizier.* Nancy itself is a neat little town, and its environs very agreeable. The valley of the little branch of the Moselle, on which it is, is about a mile wide: the road then crossing the head-waters of the Moselle, the Maes, and the Marne, the country is very hilly, and perhaps a third of it poor and in forests of beech: the other two-thirds from poor up to middling, red, and stony. Almost entirely in corn, now and then only some vines on the hills. The Moselle at Toule is thirty or forty yards wide: the Maese near Void about half that: the Marne at St. Dizier about forty yards. They all make good plains of from a quarter of a mile to a mile wide. The hills of the Maese abound with chalk. The rocks coming down from the tops of the hills, on all the road of this day, at regular intervals like the ribs of an animal, have a very irregular appearance. Considerable flocks of sheep and asses, and, in the approach to St. Dizier, great plantations of apple and cherry trees; here and there a peach tree, all in general bloom. The roads through Lorraine are strung with beggars.

April 21st. *St. Dizier. Vitry le Français. Chalons sur Marne. Epernay.* The plains of the Marne and Sault uniting, appear boundless to the eye till we approach their confluence at Vitry, where the hills come in on the right; after that the plains are generally about a mile, mulatto, of middling quality, sometimes stony. Sometimes the ground goes off from the river so sloping, that one does not know whether to call it high or low

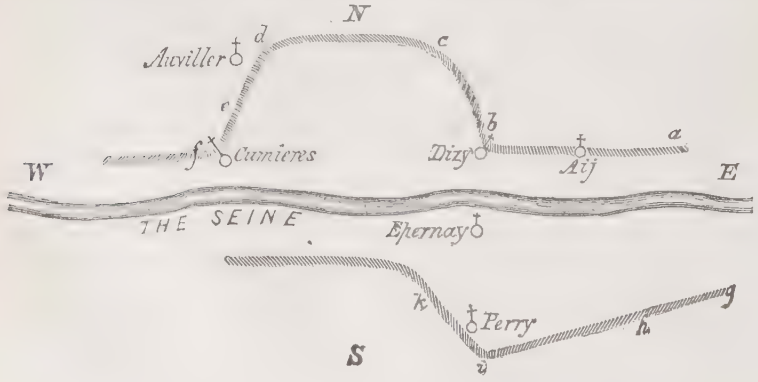
land. The hills are mulatto also, but whitish, occasioned by the quantity of chalk which seems to constitute their universal base. They are poor, and principally in vines. The streams of water are of the color of milk, occasioned by the chalk also. No inclosures, some flocks of sheep; children gathering dung in the roads. Here and there a château; but none considerable.

April 22d. *Epernay.* The hills abound with chalk. Of this they make lime, not so strong as stone lime, and therefore to be used in greater proportion. They cut the blocks into regular forms also, like stone, and build houses of it. The common earth too, well impregnated with this, is made into mortar, moulded in the form of brick, dried in the sun, and houses built of them which last one hundred or two hundred years. The plains here are a mile wide, red, good, in corn, clover, Luzerne, St. Foin. The hills are in vines, and this being precisely the canton where the most celebrated wines of Champagne are made, details must be entered into. Remember, however, that they will always relate to the white wines, unless where the red are expressly mentioned. The reason is that their red wines, though much esteemed on the spot, are by no means esteemed elsewhere equally with their white; nor do they merit equal esteem.

A Topographical sketch of the position of the wine villages, the course of the hills, and consequently the aspect of the vine-yards.

Soil, meagre, mulatto clay, mixed with small broken stone, and a little hue of chalk. Very dry.

Aspect, may be better seen by the annexed diagram. The wine



of Aij is made from *a* to *b*, those of Dizij from *b* to *c*, Auvillij *d* to *e*, Cumieres *e* to *f*, Epernay *g* to *h*, Perij *i* to *k*. The hills are generally about two hundred and fifty feet high. The good wine is made only in the middle region. The lower region, however, is better than the upper; because this last is exposed to cold winds, and a colder atmosphere.

Culture. The vines are planted two feet apart. Afterwards they are multiplied (provignés). When a stock puts out two shoots they lay them down, spread them open and cover them with earth, so as to have in the end about a plant for every square foot. For performing this operation they have a hook, of this shape, and nine inches long, which, being stuck in the ground, holds down the main stock, while the laborer separates and covers the new shoot. They leave two buds above the ground. When the vine has shot up high enough, they stick it with split sticks of oak, from an inch to an inch and a half square, and four feet long, and tie the vine to its stick with straw. These sticks cost two florins the hundred, and will last forty years. An arpent, one year with another, in the fine vineyards, gives twelve pieces, and in the inferior vineyards twenty-five pieces, of two hundred bottles each. An arpent of the first quality sells for three thousand florins, and there have been instances of seven thousand two hundred florins. The arpent contains one hundred verges, of twenty-two pieds square. The arpent of inferior quality sells at one thousand florins. They plant the vines in a hole about a foot deep, and fill that hole with good mould, to make the plant take. Otherwise it would perish. Afterwards, if ever they put dung, it is very little. During wheat harvest there is a month or six weeks that nothing is done in the vineyard, that is to say, from the 1st of August to the beginning of vintage. The vintage commences early in September, and lasts a month. A day's work of a laborer in the busiest season is twenty sous, and he feeds himself: in the least busy season it is fifteen sous. Corn lands are rented from four florins to twenty-four; but vine lands are never rented. The three façons (or

workings) of an arpent cost fifteen florins. The whole year's expense of an arpent is worth one hundred florins.

Grapes.—The bulk of their grapes are purple, which they prefer for making even white wine. They press them very lightly, without treading or permitting them to ferment at all, for about an hour; so that it is the beginning of the running only which makes the bright wine. What follows the beginning is of a straw color, and therefore not placed on a level with the first. The last part of the juice, produced by strong pressure, is red and ordinary. They choose the bunches with as much care, to make wine of the very first quality, as if to eat. Not above one-eighth of the whole grapes will do for this purpose. The white grape, though not so fine for wine as the red, when the red can be produced, and more liable to rot in a moist season, yet grows better if the soil be excessively poor, and therefore in such a soil is preferred, or rather, is used of necessity, because there the red would not grow at all.

Wine.—The white wines are either mousseux, sparkling, or non-mousseux, still. The sparkling are little drunk in France, but are almost alone known and drunk in foreign countries. This makes so great a demand, and so certain a one, that it is the dearest by about an eighth, and therefore they endeavor to make all sparkling if they can. This is done by bottling in the spring, from the beginning of March till June. If it succeeds, they lose abundance of bottles, from one-tenth to one-third. This is another cause increasing the price. To make the still wine, they bottle in September. This is only done when they know from some circumstance that the wine will not be sparkling. So if the spring bottling fails to make a sparkling wine, they decant it into other bottles in the fall, and it then makes the very best still wine. In this operation, it loses from one-tenth to one-twentieth by sediment. They let it stand in the bottles in this case forty-eight hours, with only a napkin spread over their mouths, but no cork. The best sparkling wine, decanted in this manner, makes the best still wine, and which will keep much longer than that originally made still by being bottled in September. The sparkling wines lose their briskness the older they are,

but they gain in quality with age to a certain length. These wines are in perfection from two to ten years old, and will even be very good to fifteen. 1766 was the best year ever known. 1775 and 1776 next to that. 1783 is the last good year, and that not to be compared with those. These wines stand icing very well.

Aij. M. Dorsay makes one thousand and one hundred pieces, which sell, as soon as made, at three hundred florins, and in good years four hundred florins, in the cask. I paid in his cellar, to M. Louis, his homme d'affaires, for the remains of the year 1783, three florins ten sous the bottle. Sparkling Champagne, of the same degree of excellence, would have cost four florins, (the piece and demiqueue are the same; the feuillette is one hundred bottles.) M. le Duc makes four hundred to five hundred pieces. M. de Villermont, three hundred pieces. M. Janson, two hundred and fifty pieces. All of the first quality, red and white in equal quantities.

Auvillaij. The Benedictine monks make one thousand pieces, red and white, but three-fourths red, both of the first quality. The king's table is supplied by them. This enables them to sell at five hundred and fifty florins the piece. Though their white is hardly as good as Dorsay's, their red is the best. L'Abbatiale, belonging to the bishop of the place, makes one thousand to twelve hundred pieces, red and white, three-fourths red, at four hundred to five hundred and fifty florins, because neighbors to the monks.

Cumieres is all of the second quality, both red and white, at one hundred and fifty to two hundred florins the piece.

Epernay. Madame Jermont makes two hundred pieces at three hundred florins. M. Patelaine, one hundred and fifty pieces. M. Mare, two hundred pieces. M. Chertems, sixty pieces. M. Lauchay, fifty pieces. M. Cousin (Aubergiste de l'hôtel de Róhan à Epernay), one hundred pieces. M. Pierrot, one hundred pieces. Les Chanoines regulieres d'Epernay, two hundred pieces. Mesdames les Ursulines religieuses, one hundred pieces. M. Gilette, two hundred pieces. All of the first quality; red and white in equal quantities.

Pierrij. M. Casotte makes five hundred pieces. M. de la Motte, three hundred pieces. M. de Failli, three hundred pieces. I tasted his wine of 1779, one of the good years. It was fine, though not equal to that of M. Dorsay, of 1783. He sells it at two florins ten sous to merchants, and three florins to individuals. Les Seminaristes, one hundred and fifty pieces. M. Hoquart, two hundred pieces. All of the first quality; white and red in equal quantities.

At Cramont, also, there are some wines of the first quality made. At Avisi also, and Aucy, Le Meni, Mareuil, Verzis-Verzenni. This last place belongs to the Marquis de Sillery. The wines are carried to Sillery, and there stored, whence they are called Vins de Sillery, though not made at Sillery.

All these wines of 'Epernay and Pierrij sell almost as dear as M. Dorsay's, their quality being nearly the same. There are many small proprietors who might make wine of the first quality, if they would cull their grapes, but they are too poor for this. Therefore, the proprietors before named, whose names are established, buy of the poorer ones the right to cull their vineyards, by which means they increase their quantity, as they find about one-third of the grapes will make wines of the first quality.

The lowest-priced wines of all are thirty florins the piece, red or white. They make brandy of the pumice. In very bad years, when their wines become vinegar, they are sold for six florins the piece, and made into brandy. They yield one-tenth brandy.

White Champagne is deemed good in proportion as it is silky and still. Many circumstances derange the scale of wines. The proprietor of the best vineyard, in the best year, having bad weather come upon him while he is gathering his grapes, makes a bad wine, while his neighbor, holding a more indifferent vineyard, which happens to be ingathering while the weather is good, makes a better. The M. de Casotte at Pierrij formerly was the first house. His successors, by some imperceptible change of culture, have degraded the quality of their wines. Their cellars are admirably made, being about six, eight or ten feet wide, vaulted, and extending into the ground, in a kind of

labyrinth, to a prodigious distance, with an air-hole of two feet diameter every fifty feet. From the top of the vault to the surface of the earth, is from fifteen to thirty feet. I have nowhere seen cellars comparable to these. In packing their bottles, they lay on their side; then cross them at each end, they lay laths, and on these another row of bottles, heads and points; and so on. By this means, they can take out a bottle from the top, or where they will.

April 23d. *Epernay. Château Thieray. St. Jean. Meaux. Vergalant. Paris.* From Epernay to St. Jean the road leads over hills, which in the beginning are indifferent, but get better towards the last. The plains, wherever seen, are inconsiderable. After passing St. Jean, the hills become good, and the plains increase. The country about Vergalant is pretty. A skirt of a low ridge which runs in on the extensive plains of the Marne and Seine, is very picturesque. The general bloom of fruit trees proves there are more of them than I had imagined from travelling in other seasons, when they are less distinguishable at a distance from the forest trees.

XIV.

Travelling notes for Mr Rutledge and Mr Shippen.
June 3, 1788.

General Observations.—On arriving at a town, the first thing is to buy the plan of the town, and the book noting its curiosities. Walk round the ramparts when there are any, go the top of a steeple to have a view of the town and its environs.

When you are doubting whether a thing is worth the trouble of going to see, recollect that you will never again be so near it, that you may repent the not having seen it, but can never repent having seen it. But there is an opposite extreme too, that is, the seeing too much. A judicious selection is to be aimed at, taking care that the indolence of the moment have no influence

in the decision. Take care particularly not to let the porters of churches, cabinets, &c., lead you through all the little details of their profession, which will load the memory with trifles, fatigue the attention, and waste that and your time. It is difficult to confine these people to the few objects worth seeing and remembering. They wish for your money, and suppose you give it the more willingly the more they detail to you.

When one calls in the taverns for the *vin du pays*, they give what is natural and unadulterated and cheap: when *vin etrangere* is called for, it only gives a pretext for charging an extravagant price for an unwholsome stuff, very often of their own brewery. The people you will naturally see the most of will be tavern keepers, *valets de place*, and postilions. These are the hackneyed rascals of every country. Of course they must never be considered when we calculate the national character.

Objects of attention for an American.—1. Agriculture. Everything belonging to this art, and whatever has a near relation to it. Useful or agreeable animals which might be transported to America. Species of plants for the farmer's garden, according to the climate of the different States.

2. Mechanical arts, so far as they respect things necessary in America, and inconvenient to be transported thither ready-made, such as forges, stone quarries, boats, bridges, (very especially,) &c., &c.

3. Lighter mechanical arts, and manufactures. Some of these will be worth a superficial view; but circumstances rendering it impossible that America should become a manufacturing country during the time of any man now living, it would be a waste of attention to examine these minutely.

4. Gardens, peculiarly worth the attention of an American, because it is the country of all others where the noblest gardens may be made without expense. We have only to cut out the superabundant plants.

5. Architecture worth great attention. As we double our numbers every twenty years, we must double our houses. Besides, we build of such perishable materials, that one half of our houses must be rebuilt in every space of twenty years, so that in

that time, houses are to be built for three-fourths of our inhabitants. It is, then, among the most important arts; and it is desirable to introduce taste into an art which shows so much.

6. Painting. Statuary. Too expensive for the state of wealth among us. It would be useless, therefore, and preposterous, for us to make ourselves connoisseurs in those arts. They are worth seeing, but not studying.

7. Politics of each country, well worth studying so far as respects internal affairs. Examine their influence on the happiness of the people. Take every possible occasion for entering into the houses of the laborers, and especially at the moments of their repast; see what they eat, how they are clothed, whether they are obliged to work too hard; whether the government or their landlord takes from them an unjust proportion of their labor; on what footing stands the property they call their own, their personal liberty, &c., &c.

8. Courts. To be seen as you would see the tower of London or menagerie of Versailles, with their lions, tigers, hyenas, and other beast of prey, standing in the same relation to their fellows. A slight acquaintance with them will suffice to show you that, under the most imposing exterior, they are the weakest and worst part of mankind. Their manners, could you ape them, would not make you beloved in your own country, nor would they improve it could you introduce them there to the exclusion of that honest simplicity now prevailing in America, and worthy of being cherished

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XV.

Queries as to the rights and duties of the United States under her treaties with France, and the laws of neutrality.

1st. Do the treaties between the United States and France give to France or her citizens a *right*, when at war with a power with whom the United States are at peace, to fit out originally

and from the ports of the United States, vessels armed for war with or without commission?

2d. If they give such a right, does it extend to all manner of armed vessels, or to particular kinds only? If the latter, to what kinds does it extend?

3d. Do they give to France or her citizens, in the case supposed, a right to refit, or arm anew vessels, which, before their coming within any port of the United States, were armed for war with or without commission?

4th. If they give such a right, does it extend to all manner of armed vessels, or to particular kinds only? If the latter, to what kinds does it extend? Does it include an *augmentation* of force, or does it only extend to placing the vessel in *statu quo?*

5th. Does the twenty-second article of the treaty of commerce, in the case supposed, extend to vessels armed for war on account of the Government of a power at war with France, or to merchant-armed vessels belonging to the subjects or citizens of that power, (viz.) of the description of those which, by the English, are called letters of Marque ships; by the French, "batiments armes en marchandize et en guerre"?

6th. Do the treaties aforesaid prohibit the United States from permitting in the case supposed, the armed vessels belonging to a power at war with France, or to the citizens or subjects of such power to come within the ports of the United States, there to remain as long as they may think fit, except in the case of their coming in with prizes made of the subjects or property of France?

7th. Do they prohibit the United States from permitting in the case supposed, vessels armed on account of the government of a power at war with France, or vessels armed for merchandise and war, with or without commission, on account of the subjects or citizens of such power, or any vessels, other than those commonly called privateers, to sell freely whatever they may bring into the ports of the United States, and freely to purchase in and carry from the ports of the United States, goods, merchandise, and commodities, except as excepted in the last question?

8th. Do they oblige the United States to permit France in

the case supposed, to sell in their ports the prizes which she or her citizens may have made, of any power at war with her, the citizens or subjects of such powers, or exempt from the payment of the usual duties on ships and merchandise, the prizes so made, in the case of their being to be sold within the ports of the United States?

9th. Do those treaties, particularly the Consular Convention, authorize France, as of right, to erect courts within the jurisdiction of the United States, for the trial and condemnation of prizes made by armed vessels in her service?

10th. Do the laws and usages of nations authorize her, as of right, to erect such courts for such purposes?

11th. Do the laws of neutrality, considered relatively to the treaties of the United States with foreign powers, or independently of those treaties, permit the United States in the case supposed, to allow to France or her citizens, the privilege of fitting out *originally* in and from the ports of the United States, vessels armed and commissioned for war, either on account of the government, or of private persons, or both?

12th. Do those laws permit the United States to extend the like privilege to a power at war with France?

13th. Do the laws of neutrality, considered as aforesaid, permit the United States, in the case supposed, to allow to France or her citizens the privilege of refitting, or arming anew, vessels which, before their coming within the United States, were armed and commissioned for war? May such privilege include an *augmentation* of the force of such vessels?

14th. Do those laws permit the United States to extend the like privilege to a power at war with France?

15th. Do those laws in the case supposed, permit merchant vessels of either of the powers at war to arm in the ports of the United States without being commissioned? May this privilege be rightfully refused?

16th. Does it make any difference in point of principle, whether a vessel be armed for war, or the force of an armed vessel be augmented in the ports of the United States with *means* procured in the United States, or with means brought in-

to them by the party who shall so arm or augment the force of such vessels? If the first be unlawful, is the last lawful?

17th. Do the laws of neutrality, considered as aforesaid, authorize the United States to permit France, her subjects, or citizens, the sale within their ports of prizes made of the subjects or property of a power at war with France, before they have been carried into some port of France and there condemned, refusing the privilege to her enemy?

18th. Do those laws authorize the United States to permit to France the erection of courts within their territory and jurisdiction, for the trial and condemnations of prizes refusing that privilege to a power at war with France?

19th. If any armed vessel of foreign power at war with another, with whom the United States are at peace, shall make prize of the subjects or property of its enemy within the territory or jurisdiction of the United States, have not the United States a right to cause restitution of such prize? Are they bound or not by the principles of neutrality so to do, if such prize shall be within their power?

20th. To what distance, by the laws and usages of nations, may the United States exercise the right of prohibiting the hostilities of foreign powers at war with each other, within rivers, bays, and arms of the sea, and upon the sea along the coast of the United States?

21st. Have vessels armed for war, under commission from a foreign power, a right without the consent of the United States, to engage within their jurisdiction seamen or soldiers, for the service of such vessels, being citizens of that power or of another foreign power, or citizens of the United States?

22d. What are the articles by name to be prohibited to both or either party?

23d. To what extent does the reparation permitted in the nineteenth article of the treaty with France, go?

24th. What may be done as to vessels armed in our ports before the President's proclamation? And what as to the prizes they made *before* and *after*?

25th. May we within our own ports sell ships to both parties prepared merely for merchandise? May they be pierced for guns?

26th. May we carry either or both kinds to the ports of the belligerent powers for sale?

27th. Is the principle that free bottoms make free goods, and enemies bottoms make enemies goods, to be considered as now an established part of the law of nations?

28th. If it is not, are nations with whom we have no treaties, authorized by the law of nations to take out of our vessels enemy passengers, not being soldiers, and their baggage?

29th. May an armed vessel belonging to any of the belligerent powers, follow *immediately* merchant vessels, enemies departing from our ports, for the purpose of making prizes of them? If not, how long ought the former to remain after the latter has sailed? And what shall be considered as the place of departure, from which the time is to be counted? And how are the facts to be ascertained?

The first twenty-one questions by Alexander Hamilton.

Twenty-two to twenty-eight, by Thomas Jefferson.

Twenty-ninth, by the President.

XVI.

Heads of consideration on the conduct we are to observe in the war between Spain and Great Britain, and particularly should the latter attempt the conquest of Louisiana and the Floridas.

The dangers to us, should Great Britain possess herself of those countries:—

She will possess a territory equal to half ours beyond the Mississippi.

She will reduce that half of ours which is on this side of the Mississippi;—by her language, laws, religion, manners, government, commerce, capital;—by the possession of New Orleans, which draws to it the dependence of all the waters of the Mis-

sissippi;—by the markets she can offer them in the Gulf of Mexico and elsewhere.

She will take from the remaining part of our States the markets they now have for their produce;—by furnishing those markets cheaper with the same articles, tobacco, rice, indigo, bread, lumber, arms, naval stores, furs.

She will have then possessions double the size of ours, as good in soil and climate.

She will encircle us completely, by these possessions on our land-board, and her fleets on our sea-board. Instead of two neighbors balancing each other, we shall have one with more than the strength of both.

Would the prevention of this be worth a war?

Consider our abilities to take part in a war. Our operations would be by land only. How many men should we need to employ?—their cost? Our resources of taxation and credit equal to this.

Weigh the evil of this new accumulation of debt against the loss of markets, and eternal expense and danger from so overgrown a neighbor.

But this is on supposition that France, as well as Spain, shall be engaged in the war; for, with Spain alone, the war would be unsuccessful, and our situation rendered worse.

No need to take a part in the war as yet. We may choose our own time. Delay gives us many chances to avoid it altogether.

In such a choice of objects, Great Britain may not single out Louisiana and the Floridas. She may fail in her attempt on them. France and Spain may recover them.

If all these chances fail, we should have to re-take them. The difference between re-taking and preventing, overbalanced by the benefits of delay. Delay enables us to be better prepared to obtain from the allies a price for our assistance.

Suppose these our ultimate views, what is to be done at this time?

1. As to Spain:—

If she be as sensible as we are, that she cannot save Louis-

iana and the Floridas, might she not prefer their independence to their subjection to Great Britain? Does not the proposition of the Count d'Estaing furnish us an opening to communicate our ideas on this subject to the court of France, and through them to that of Madrid? and our readiness to join them in guaranteeing the independence of those countries? This might save us from a war, if Great Britain respected our weight in a war; and if she does not, the object would place the war on popular ground with us.

2. As to England?—say to Beckwith,—

That as to a treaty of commerce, we would prefer amicable to adversary arrangements, though the latter would be infallible, and in our own power: that our ideas are, that such a treaty should be founded in perfect reciprocity, and would, therefore, be its own price: that as to an alliance, we can say nothing till its object be shown, and that it is not to be inconsistent with existing engagements: that in the event of a war between Great Britain and Spain, we are disposed to be strictly neutral: that, however, we should view with extreme uneasiness any attempts of either power to seize the possessions of the other on our frontier, as we consider our own safety interested in a due balance between our neighbors. [It might be deemed advantageous to express this latter sentiment, because, if there be any difference of opinion in their councils, whether to bend their force against North or South America, or the islands (and certainly there is room for difference), and if these opinions be nearly balanced, that balance ought to be determined by the prospect of having an enemy the more or less, according to the object they should select.]

July 12th, 1790.

XVII.

Heads of consideration on the Navigation of the Mississippi, for Mr. Carmichael, Aug. 22d, 1790.

We have a *right* to the navigation of the Mississippi—1, by Nature; 2, by Treaty.

It is *necessary* to us. More than half the territory of the United States is on the waters of that river. Two hundred thousand of our citizens are settled on them, of whom forty thousand bear arms. These have no other outlet for their tobacco, rice, corn, hemp, lumber, house timber, ship timber.

We have hitherto respected the indecision of Spain, because we wish peace;—because our western citizens have had vent at home for their productions.

A surplus of production begins now to demand foreign markets. Whenever they shall say, "We cannot, we will not, be longer shut up," the United States will be reduced to the following dilemma: 1. To force them to acquiescence. 2. To separate from them, rather than take part in a war against Spain. 3. Or to preserve them in our Union, by joining them in the war.

The 1st is neither in our principles, nor in our power. 2d. A multitude of reasons decide against the second. It may suffice to speak out one: were we to give up half our territory rather than engage in a just war to preserve it, we should not keep the other half long. 3d. The third is the alternative we must adopt.

How are we to obtain that navigation?

(A.) By *Force.*

I. Acting *separately.* That we can effect this with certainty and promptitude, circumstances decide.

Objection. We cannot retain New Orleans, for instance, were we to take it.

Answer. A moderate force may be so secured, as to hold out till succored. Our succors can be prompt and effectual. Suppose, after taking it, we withdraw our force. If Spain retakes it by an expedition, we can recover it by a

counter-expedition, and so as often as the case shall happen. Their expedition will be slow, expensive, and lead to catastrophes. Ours sudden, economical, and a check can have no consequences. We should associate the country to our Union. The inhabitants wish this. They are not disposed to be of the Spanish government. It is idle in Spain to suppose our Western inhabitants will unite with them. They could be quiet but a short time under a government so repugnant to their feelings. Were they to come under it for present purposes, it would be with a view to throw it off soon. Should they remain, they would communicate a spirit of independence to those with whom they should be mixed.

II. Acting in *conjunction* with Great Britain, and with a view to partition. The Floridas (including New Orleans) would be assigned to us. Louisiana (or all the Western waters of the Mississippi) to them. We confess that such an alliance is not what we would wish. Because it may eventually lead us into embarrassing situations with our best friend, and put the power of two neighbors into the hands of one. L. Lansdowne has declared he gave the Floridas to Spain rather than the United States as a bone of discord with the House of Bourbon, and of re-union with Great Britain. Connolly's attempt (as well as other facts) proves they keep it in view.

(B.) By *Negotiation.*

I. What must Spain do of *necessity?* The conduct of Spain has proved that the occlusion of the Mississippi is system with her. If she opens it now, it will be because forced by imperious circumstances. She will consequently shut it again when these circumstances cease. Treaty will be no obstacle. Irregularities, real or pretended, in our navigators, will furnish color enough. Perpetual broils, and finally war will ensue. Prudence, and even necessity, imposes on us the law of settling the matter now, *finally*, and not by *halves*. With experience of the past and prospect of the future, it would be imbe-

cility in us to accept the naked navigation. With that, we must have what is necessary to its use, and without which it would be useless to secure its continuance; that is, a port near the mouth to receive our vessels and protect the navigation. But even this will not secure the Floridas and Louisiana against Great Britain. If we are neutral, she will wrest those possessions from Spain. The inhabitants (French, English, Scotch, American) would prefer England to Spain.

II. What then had Spain better do of *choice?* Cede to us all territory on our side of the Mississippi: on condition that we guarantee all her possessions on the Western waters of that river, she agreeing further, to subsidize us if the guarantee brings us into the war.

Should Great Britain possess herself of the Floridas and Louisiana, her governing principles are conquest, colonization, commerce, monopoly. She will establish powerful colonies in them. These can be poured into the Gulf of Mexico for any sudden enterprise there, or invade Mexico, their next neighbor, by land. Whilst a fleet co-operates along shore, and cuts off relief. And proceed successively from colony to colony.

With respect to us, if Great Britain establishes herself on our whole land-board our lot will be bloody and eternal war, or indissoluble confederacy. Which ought we to choose? What will be the lot of the Spanish colonies in the jaws of such a confederacy? What will secure the ocean against the monopoly?

Safer for Spain that we should be her neighbor, than England. Conquest not in our principles: inconsistent with our government. Not our interest to cross the Mississippi for ages. And will never be our interest to remain united with those who do. Intermediate chances save the trouble of calculating so far forward.

Consequences of this cession, and guarantee: 1. Every subject of difference will be removed from between Spain and the United States. 2. Our interest will be strongly

engaged in her retaining her American possessions. 3. Spain will be quieted as to Louisiana, and her territories west of that. 4. She may employ her whole force in defence of her islands and Southern possessions. 5. If we preserve our neutrality, it will be a very partial one to her. 6. If we are forced into the war, it will be, as we wish, on the side of the House of Bourbon. 7. Her privateers will commit formidable depredation on the British trade, and occupy much of their force. 8. By withholding supplies of provision, as well as by concurring in expeditions, the British islands will be in imminent danger. 9. Their expenses of precaution, both for their continental and insular possessions, will be so augmented as to give a hope of running their credit down. In fine, for a narrow slip of barren, detached, and expensive country, Spain secures the rest of her territory, and makes an ally where she might have a dangerous enemy.

XVIII.

Questions to be considered of.

I. As to France.

Shall it be proposed to M. de Ternan to form a treaty ad referendum to this effect: The citizens of the United States and of France, their vessels, productions, and manufactures, shall be received and considered each in all the dominions of the other as if they were the native citizens, or the ships, productions, or manufactures of the other; and the productions of the sea shall be received in all the dominions of each, as if they were the productions of the country by the industry of whose citizens they have been taken or produced from the sea. Saving only as to the persons of their citizens, that they shall continue under those in capacities for office, each with the other, which the constitution of France, or of the United States, or any of them, have or shall establish against foreigners of all nations, without exception?

If not, shall a treaty be proposed to him ad referendum, in which the conditions shall be detailed on which the persons, ships, productions, and manufactures of each shall be received with the other, and the imports to which they shall be liable be formed into a tariff?

Shall the Senate be consulted in the beginning, in the middle, or only at the close of this transaction?

II. As to England.

Shall Mr. Hammond be *now* asked whether he is instructed to give us any explanations of the intentions of his court, as to the detention of our Western posts, and other infringements of our treaty with them?

Shall he be now asked whether he is authorized to conclude, or to negotiate any commercial arrangements with us?

November 26, 1791.

XIX.

Plan of a Bill concerning Consuls.

The matter of the bill will naturally divide as follows:

I. Foreign Consuls residing within the United States under a convention.

II. Consuls of the United States residing in foreign countries under a convention.

III. Provision for future conventions, and cases where there is no convention.

Preliminary observations.—Nothing should be inserted in the bill which is fully and adequately provided for by the convention with France, because weak magistrates may infer from thence, that the parts omitted were not meant by the Legislature to be enforced.

Are not the first, second and third sections of the printed bill objectionable in this view? The instructions of the Executive to their consuls will of course provide for the notification directed in the second clause.

I. For carrying into full effect the convention between his most Christian Majesty and the United States of America, entered into for the purpose of defining and establishing the functions and privileges of their respective Consuls and Vice-Consuls, Be it enacted by the Senate and House of Representatives of the United States of America, that where, in the seventh article of the said convention, it is agreed when there shall be no Consul or Vice-Consul of his most Christian King to attend to the saving of the wreck of any French vessel stranded on the coast of the United States, or that the residence of the said Consul or Vice-Consul (he not being at the place of the wreck) shall be more distant from the same place than that of the competent judge of the country, the latter shall immediately proceed to perform the office therein prescribed, the nearest (here name the officer) shall be the competent judge designated in the said article, and it shall be incumbent on him to perform the office prescribed in the said article, and according to the tenor thereof. Go on to direct who, in conjunction with the Consul or Vice-Consul, (if there be one,) shall ascertain the abatement of duties on the damaged goods stipulated in this article.

Article 9th allows the Consuls of the most Christian King to arrest and imprison deserted captains, officers, mariners, seamen, and all others being part of a ship's crew. For which purpose they are to address themselves to the courts, judges, and officers competent, who are to aid in arresting the deserter, and to confine him in the prisons of the country. Say who are the competent courts, judges, and officers to whom he is to apply, and what prisons they shall use.

This clause confines the terms of imprisonment to three months. The French Consuls represent that in many ports of the United States, no opportunity of re-conveying by a French ship occurs within that term, and they ask a longer. Suppose it be referred to the Federal district judge on application by the French Consul, and on his showing good cause, to prolong the term from time to time, not exceeding three months additional in the whole.

Article 12th. It is necessary to authorize some officer to execute the sentences of the Consul, *not extending to life, limb or*

liberty. Will it be best to require the Marshal residing at the port to do it, (and make it the duty, where none resides, to appoint a deputy residing there,) or to allow the Consul to constitute some person of his nation an officer for the purpose? If it should be thought indifferent to us, it might be well to pay the French the compliment of asking their minister here which he would prefer, and it would shield us from complaints of delinquencies in the executing officer.

II. Article 12th. Say by what law the Consul of the United States, residing in the French dominion, shall decide the cases whereof he has jurisdiction, viz.: by the same law by which the proper federal court would decide the same case.

Direct appeals from Consular sentences to the proper Federal court, and save defects of formality in proceedings, where the matter is substantially stated.

Article 4th. Declare what validity the authentication under the Consular seal, of any instrument executed in foreign countries, shall have in the courts of the United States.

[Duties not prescribed in the Convention.]

To subsist ship-wrecked or wandering seamen till an opportunity offers of sending them back to some port of the United States, and to oblige every master of an American vessel homeward bound, to receive and bring them back in a certain proportion; they working, if able.

Where a ship is sold in a foreign port, oblige the master to send back the crew, or furnish wherewithal to do it, on pain of an arrest by the Consul on his ship, his goods, and his person, (if the laws of the land permit it,) until he does it.

Oblige all American masters (on pain of arrest, till compliance, of their vessel, cargo, or person, or such other pain as shall be thought effectual) on their arrival in any foreign port within the jurisdiction of a Consul or Vice-Consul of the United States, to report to him or his agent in the port, their ship's name, and owners, burthen, crew, cargo, and its owners, from what port of the United States they cleared, and at what ports they have touched. Also to report to the Consul the cargo they take in,

and the port or ports of destination, and to take his certificate that such report has been made, on like pain.

Allow certain fees to Consuls where none are already allowed, for the same services, by the laws of the countries in which they reside.

Allow salaries not exceeding three thousand dollars to one Consul in each of the Barbary States.

III. Where there are Consuls of the United States residing in foreign countries, with which we have no convention, but whose governments indulge our Consuls in the exercise of functions, extend the provisions of this bill, or such of them as such government permits, to such Consuls of the United States residing with them.

Also where any Consular Convention shall hereafter be removed with the same, or entered into with any other nation, with stipulations corresponding to those provided for in this bill, extend the provisions of the bill respectively to the Consuls on both sides.

XX.

Matters to be arranged between the Governments of England and United States. December 12th, 1791.

The discussions which are opening between Mr. Hammond and our government, have as yet looked towards no objects but those which depend on the treaty of peace. There are, however, other matters to be arranged between the two governments, some of which do not rest on that treaty. The following is a statement of the whole of them:

1st. The Western ports.

2d. The negroes carried away.

3d. The debt of their bank to Maryland, and perhaps Rhode Island.

4th. Goods taken from the inhabitants of Boston, while the town was in their possession, and compensation promised.

5th. Prizes taken after the dates at which hostilities were to cease

6th. Subsistence of prisoners.

7th. The Eastern boundary.

Which of these shall be taken into the present discussion?

Which of them shall be left to arrangement through the ordinary channels of our ministers, in order to avoid embarrassing the more important points with matters of less consequence?

On the subject of commerce shall Mr. Hammond be desired to produce his powers to treat, as is usual, before conferences are held on that subject?

XXI.

Memorandum of communications made to a committee of the Senate on the subject of the diplomatic nominations to Paris, London, and the Hague. January 4th, 1792.

The Secretary of State having yesterday received a note from Mr. Strong, as chairman of a committee of the Senate, asking a conference with him on the subject of the late diplomatic nominations to Paris, London, and the Hague, he met them in the Senate-chamber in the evening of the same day, and stated to them in substance what follows:—

That he should on all occasions be ready to give to the Senate, or to any other branch of the government, whatever information might properly be communicated, and might be necessary to enable them to proceed in the line of their respective offices: that on the present occasion, particularly, *as the Senate had to decide on the fitness of certain persons to act for the United States at certain courts, they would be the better enabled to decide, if they were informed of the state of our affairs at those courts, and what we had to do there:* that when the bill for providing the means of intercourse with foreign nations was before the legislature, he had met the committees of each House, and had given them the ideas of the executive as to the courts with which we should keep diplomatic characters, and the grades we should employ: that there were two principles, which decided on the

courts, viz., 1, *vicinage;* and 2, *commerce:* that the first operated in the cases of London and Madrid, and the second in the same cases, and also in those of France and Portugal; perhaps, too, of Holland: that as to all other countries, our commerce and connections were too unimportant to call for the exchange of diplomatic residents: that he thought we should adopt the lowest grades admissible, to wit, at Paris that of minister plenipotentiary, because that grade was already established there; the same at London, because of the pride of that court, and perhaps the sense of our country and its interests, would require a sort of equality of treatment to be observed towards them; and for Spain and Lisbon, that of chargé des affaires only; the Hague uncertain: that at the moment of this bill, there was a complete vacancy of appointments between us and France and England, by the accidental translations of the ministers of France and the United States to other offices, and none as yet appointed to, or from England: that in this state of things, the legislature had provided for the grade of minister plenipotentiary, as one that was to be continued, and showed they had their eye on that grade only, and that of chargé des affaires; and that by the sum allowed, they approved of the views then communicated: that circumstances had obliged us to change the grade at Lisbon to minister resident, and this of course would force a change at Madrid and the Hague, as had been communicated at the time to the Senate; but that no change was made in the salary, that of resident being made the same as had been established for a chargé des affaires.——He then added, the new circumstances which had supervened on those general ones in favor of these establishments, to wit, with Paris, the proposal on their part to make a liberal treaty, the present situation of their colonies which might lead to a freer commerce with them, and the arrival of a minister plenipotentiary here; with London, their sending a minister here in consequence of notorious and repeated applications from us, the powers given him to arrange the differences which had arisen about the execution of the treaty, to wit, the posts, negroes, &c., which was now in train, and perhaps some authority to talk on the subject of arrangements of commerce, and also the circum-

stances which had induced that minister to produce his commission; with Madrid, the communication from the king, that he was ready to resume the negociations on the navigation of the Mississippi, and to arrange that, and a port of deposit on the most friendly footing, if we would send a proper person to Madrid for that purpose: he explained the idea of joining one of the ministers in Europe to Mr. Carmichael for that purpose; with Lisbon, that we had to try to obtain a right of sending flour there, and mentioned Del Pinta's former favorable opinion on that subject: he stated, also, the interesting situation of Brazil, and the dispositions of the court of Portugal with respect to our warfare with the Algerines; with Holland, the negociating loans for the transfer of the whole French debt there, an operation which must be of some years, because there is but a given sum of new money to be lent to any one nation. He then particularly recapitulated the circumstances which justified the President's having continued the grade of minister plenipotentiary; but added, that whenever the biennial bill should come on, each House would have a constitutional right to review the establishment again, and whenever it should appear that either House thought any part of it might be reduced, on giving to the executive time to avail themselves of the first convenient occasion to reduce it, the executive could not but do it; but that it would be extremely injurious now, or at any other time, to do it so abruptly as to occasion the recall of ministers, or unfriendly sensations in any of those countries with which our commerce is interesting.

That a circumstance, recalled to the recollection of the Secretary of State this morning, induced him immediately to add to the preceding verbal communication a letter addressed to Mr. Strong in the following words:—

PHILADELPHIA, January 4th, 1792.

"SIR,—I am just now made to recollect a mistake in one of the answers I gave last night in the committee of the Senate, and which, therefore, I beg leave to correct. After calling to their minds the footing on which Mr. Morris had left matters at

the court of London, and informing them of what had passed between the British minister here and myself, I was asked whether this was all that had taken place? Whether there had been no other or further engagement? I paused, you may remember, to recollect. I knew nothing more had passed on the other side the water, because Mr. Morris' powers there had been determined, and I endeavored to recollect whether anything else had passed with Mr. Hammond and myself. I answered that this was all, and added in proof, that I was sure nothing had passed between the President and Mr. Hammond, personally, and so I might safely say this was all. It escaped me that there had been an informal agent here, (Colonel Beckwith,) and so informal that it was thought proper that I should never speak on business with him, and that on a particular occasion, the question having been asked whether if a British minister should be sent here, we would send one in exchange? It was said, through another channel, that one would doubtless be sent. Having only been present when it was concluded to give the answer, and not having been myself the person who communicated it, nor having otherwise had any conversation with Colonel Beckwith on the subject, it absolutely escaped my recollection at the moment the committee put the question, and I now correct the error I committed in my answer, with the same good faith with which I committed the error in the first moment. Permit me to ask the favor of you, sir, to communicate this to the other members of the committee, and to consider this as a part of the information I have had the honor of giving the committee on the subject.

I am with the most perfect esteem, sir, Your most obedient and most humble servant.

Which letter, with the preceding statement, contains the substance of what the Secretary of State has communicated to the committee, as far as his memory enables him to recollect.

XXII.

Considerations on the subjects of Ransom, and Peace with the Algerines. April 1st, 1792.

I. The Ransom of our captive citizens, being fourteen in number.

For facts on this subject refer to the Reports of December 28th, 1790, on the same ransom, and on the Mediterranean trade, and to Mr. Short's letter of August 21st, 1791, sent to the Senate.

The probable cost will be one thousand five hundred dollars for the common men, and half as much more for officers: adding presents, duties, and other expenses, it will be little short of forty thousand dollars. This must be ready money, and consequently requires a joint, but secret vote of both houses. An agent must be sent for the purpose.

II. Peace, how best to be obtained?

1st. By war; that is to say, by constant cruises in the Mediterranean. This proved practicable by the experiment of M. de Massiac, by the Portuguese cruise. The co-operation of Portugal, Naples, Genoa, and Malta, could possibly be obtained, but the expense would be considerable. Vessels mounting one hundred guns in the whole, would probably be wanting on our part. These would cost in the outset four hundred thousand dollars, and annually afterwards one hundred and twenty-five thousand dollars. It may be doubted if this expense could be met during the present Indian war. If it could, it is the most honorable and efficacious way of having peace.

2d. By paying a gross sum for a peace of fifty years. Respectable opinions vary from three hundred thousand to one million dollars, as to the first cost. Then are to follow frequent occasional presents; and with all this, the peace will not be respected unless we appear able to enforce it; and if able to enforce it, why not rely on that solely? The same question arises here, to wit: are we able to meet this expense at present?

3. By tribute annually.

The Dutch, Danes, Swedes, and Venetians, pay about twenty-four thousand dollars a year. We might, perhaps, obtain it for something less. If for ten or fifteen thousand dollars, it might be eligible. And by a tariff for the ransom of the captives they shall take from us. If low, this might do for the present. The agent to be sent for the purpose of ransom might be authorized to treat; but should also make himself acquainted with their coast, harbor, vessels, manner of fighting, &c. On either of these plans a vote of the Senate will be requisite.

On the 1st or 2d the Representatives should be consulted, and perhaps on the 3d or 4th. It will be best to bring it on by a message from the President.

XXIII.

Notes of a conversation with Mr. Hammond. June 3d, 1792.

Having received Mr. Hammond's letter of June 2d, informing me that my letter of May 29th should be sent to his court for their instructions, I immediately went to his house. He was not at home. I wrote him a note, inviting him to come and dine with me alone, that we might confer together in a familiar way on the subject of our letters, and consider what was to be done. He was engaged, but said he would call on me any hour the next day. I invited him to take a solo dinner the next day. He accepted and came. After the cloth was taken off, and the servants retired, I introduced the conversation by adverting to that part of his letter wherein he disavowed any intentional deception, if he had been misinformed, and had misstated any facts, assuring him that I acquitted him of every suspicion of that kind: that he had been here too short a time to be acquainted with facts himself, or to know the best sources for getting at them: that I had found great difficulty myself in the investigation of facts, and with respect to the proceedings of the courts particularly, had been indebted to the circumstance of Congress being in session, so that I could apply to the mem-

bers of the different States for information respecting their States. I told him that each party having now stated the matters between the two nations in the point of view in which they appeared to each, had hoped that we might by the way of free conversation abridge what remained: that I expected we were to take for our basis, that the treaty was to be fully executed: that, on our part, we had pronounced our demands explicitly, to have the upper posts delivered up, and the negroes paid for: that they objected infractions on our part, which we denied: that we ought to proceed to investigate the facts on which we differed: that this was the country in which they could alone be investigated; and if it should be found we had *unjustifiably* broken the treaty, the case was of a nature to admit of a proper compromise.

He said that he believed the question had never been understood by his court;—admitted they had as yet heard only one side of it, and that from a party which entertained strong feelings against us (I think he said the Refugees): that the idea would be quite new to his court, of their having committed the first infraction, and of the proceedings on the subject of their debts here being on the ground of retaliation: that this gave the case a complexion so entirely new and different from what had been contemplated, that he should not be justified in taking a single step: that he should send my letter to the ministers—that they would be able to consider facts and dates, see if they had really been the first infractors, and say what ground they would take on this new state of the case: that the matter was now for the first time carried into mutual discussion: that the close of my letter contained specific propositions, to which they would of course give specific answers adapted to the new statement of things brought forward. I replied, that as to the fact of their committing the first infraction, it could not be questioned: confessed that I believe the ministers which signed the treaty, meant to execute it: that Lord Shelburne's plan was to produce a new coalescence by a liberal conduct towards us: that the ministry which succeeded thought the treaty too liberal, and wished to curtail its effect in the course of executing it; but that

if every move and counter-move was to cross the Atlantic, it would be a long game indeed. He said, no: that he thought they could take their ultimate ground at once, on having before them a full view of the facts, and he thought it fortunate that Mr. Bord, from whom he got most of his information, and Lord Dorchester, would be on the spot to bring things to rights, and he imagined he could receive his instructions before November.

I told him that I apprehended that Lord Dorchester would not feel a disposition to promote conciliation, seeing himself marked personally as an infractor; and mentioned to him the opinions entertained here of the unfriendliness of Mr. Bord's mind towards us. He justified Mr. Bord. He had received information from their other consuls, and the factors of the merchants, who assured him that they could furnish proofs of the facts they communicated to him, and which he had advanced on their authority, and that he should now write to them to produce their authority. He admitted that the debt to British subjects might be considered as liquidated from the Potomac northward: that South Carolina was making a laudable effort to pay hers; and that the only important object now was, that of Virginia, amounting by his list to two millions sterling: that the attention of the British merchants from North to South was turned to the decision of the case of Jones and Walker, which he hoped would take place at the present session, and let them see what they had to depend on. I told him that I was sorry to learn that but two judges had arrived in Richmond, and that unless the third arrived they would not take it up. I desired him to observe that the question in that case related only to that description of debts which had been paid into the treasury: that without pretending to know with any accuracy what proportion of the whole debt of Virginia had been paid into the treasury, I believed it was a small one; but the case of Jones and Walker would be a precedent for those debts only: that as to the great residuary mass, there were precedents enough, as it appeared they were in a full course of recovery, and that there was no obstacle, real or apparent. He did not appear to have adverted to the distinction, and showed marks of satisfaction on understanding that the

question was confined to the other portion of the debts only. He thought that the collection, there being one under a hopeful way, would of itself change the ground on which our difference stands. He observed that the treaty was of itself so vague and inconsistent in many of its parts, as to require an explanatory convention. He instanced the two articles, one of which gave them the navigation of the Mississippi, and the other bounded them by a due west line from the Lake of the Woods, which being now understood to pass beyond the most northern sources of the Mississippi, intercepted all access to that river: that to reconcile these articles, that line should be so run as to give them access to the navigable waters of the Mississippi, and that it would even be for our interest to introduce a third power between us and the Spaniards. He asked my idea of the line from the Lake of the Woods, and of now settling it. I told him I knew of no objection to the settlement of it: that my idea of it was, that if it was an impassable line, as proposed in the treaty, it should be rendered passable by as small and unimportant an alteration as might be, which I thought would be to throw in a line running due north from the northernmost source of the Mississippi, till it should strike the western line from the Lake of the Woods: that the article giving them a navigation in the Mississippi did not relate at all to this northern boundary, but to the southern one, and to the secret article respecting that: that he knew that our Provisional Treaty was made seven weeks before that with Spain: that at the date of ours, their ministers had still a hope of retaining Florida, in which case they were to come up to the thirty-second degree, and in which case also the navigation of the Mississippi would have been important; but that they had not been able, in event, to retain the country to which the navigation was to be an appendage. (It was evident to me that they had it in view to claim a slice on our north-western quarter, that they may get into the Mississippi; indeed, I thought it presented as a sort of make-weight with the posts to compensate the great losses their citizens had sustained by the infractions charged on us.)

I had hinted that I had not been without a hope, that an early

possession of the posts might have been given us as a commencement of full execution of the treaty.

He asked me if I had conceived that he was authorized to write to the Governor of Canada to deliver us the posts? I said I had. He smiled at that idea, and assured me he had by no means any such authority. I mentioned what I had understood to have passed between him and General Dickinson, which was related to me by Mr. Hawkins, to wit: that the posts might be delivered upon the assurance of the recovery of their debts in Virginia. He said, that if any such thing as that had dropped from him, it must have been merely as a private and unauthorized opinion, for that the opinion of his court was, that the retention of the posts was but a short compensation for the losses which their citizens had sustained, and would sustain by the delay of their admission into our courts. (Putting together this expression and his frequent declarations that the face of the controversy was now so totally changed from what it was understood to be at his court, that no instructions of his could be applicable to it, I concluded that his court had entertained no thought of ever giving up the posts, and had framed their instructions to him on a totally different hypothesis.) He asked what we understood to be the boundary between us and the Indians? I told him he would see by recurring to my report on the North Western Territory, and by tracing the line there described on Hutchins' map. What did I understand to be our right in the Indian soil? 1st. A right of prëemption of their lands; that is to say, the sole and exclusive right of purchasing from them whenever they should be willing to sell. 2d. A right of regulating the commerce between them and the whites. Did I suppose that the right of prëemption prohibited any individual of another nation from purchasing lands which the Indians should be willing to sell? Certainly. We consider it as established by the usage of different nations into a kind of Jus gentium for America, that a white nation settling down and declaring that such and such are their limits, makes an invasion of those limits by any other white nation an act of war, but gives no right of soil against the native possessors. Did I think the right of regulating the com-

merce went to prohibit the British traders from coming into the Indian territory? That has been the idea. He said this would be hard on the Indians. I observed that whichever way the principle was established, it would work equally on both sides the line. I did not know whether we would gain or lose by mutual admission or exclusion. He said they apprehended our intention was to exterminate the Indians and take the lands. I assured him that, on the contrary, our system was to protect them, even against our own citizens: that we wish to get lines established with all of them, and have no views even of purchasing any more lands of them for a long time. We consider them as a maze chaussee, or police, for scouring the woods on our borders, and preventing their being a cover for rovers and robbers.

He wished the treaty had established an independent nation between us to keep us apart. He was under great apprehensions that it would become a matter of bidding as it were, between the British and us, who should have the greatest army there, and who should have the greatest force on the lakes: that we, holding posts on this side the water, and they on the other, soldiers looking constantly at one another, would get into broils and commit the two nations in war. I told him we might perhaps regulate by agreement the force to be kept on each side.

He asked what was our view in keeping a force there: that he apprehended if we had these posts, we should be able to hinder vessels from passing. I answered that I did not know whether the position of the present posts was such as that no vessel could pass but within their gun-shot; but that each party must have a plenty of such positions on the opposite sides, exclusively of the present posts: that our view in possessing these posts was to awe the Indians, to participate in the fur trade, to protect that trade. Protect it against whom? Against the Indians. He asked what I imagined to be their motives for keeping the posts? To influence the Indians, to keep off a rival nation and the appearance of having a rival nation, to monopolize the fur trade. He said he was not afraid of rivals if the traders would have fair play. He thought it would be better that

neither party should have any military posts, but only trading houses. I told him that the idea of having no military posts on either side was new to me: that it had never been mentioned among the members of the executive: that therefore I could only speak for myself and say that, *primâ facie*, it accorded well with two favorite ideas of mine, of leaving commerce free, and never keeping an unnecessary soldier; but when he spoke of having no military posts on either side, there might be difficulty in fixing the distance of the nearest posts. He said that though his opinion on this subject was only a private one, and he understood mine to be so also, yet he was much pleased that we two seemed to think nearly alike, as it might lead to something. He said that their principal object in the fur trade was the consumption of the goods they gave in exchange for the furs. I answered that whether the trade was carried on by English or Americans, it would be with English goods, and the route would be, not through Canada, but by the shorter channels of the Hudson or Potomac.

It is not pretended that the above is in the exact order, or the exact words of the conversation. This was often desultory, and I can only answer for having given generally the expression, and always the substance of what passed.

XXIV.

Extempore thoughts and doubts, on very superficially running over the Bankrupt Bill.

The British statute excepts expressly farmers, graziers, drovers, as such, though they buy to sell again. This bill has no exception.

The British adjudications exempt the buyers and sellers of bank-stock, government papers, &c. What feelings guided the draughtsman in adhering to his original in this case, and departing from it in the other?

The British courts adjudge that any artists may be bankrupts if the materials of their art are bought, such as shoemakers, black-

smiths, carpenters, &c. Will the body of our artists desire to be brought within the vortex of this law? It will follow as a consequence that the master who has an artist of this kind in his family, whether hired, indentured, or a slave, to serve the purposes of his farm or family, but who may at leisure times do something for his neighbors also, may be a bankrupt.

The British law makes a departure from the realm, *i. e.* out of the mediation of British law, an act of bankruptcy. This bill makes a departure from the *State wherein he resides*, (though into a neighboring one where the laws of the United States run equally,) an act of bankruptcy.

The commissioners may open houses, break open doors, chests, &c. Are we really ripe for this? Is that spirit of independence and sovereignty which a man feels in his own house, and which Englishmen felt when they denominated their houses their castles, to be absolutely subdued? and is it expedient that it should be subdued?"

The lands of the bankrupt are to be taken, sold, &c. Is not this a predominant question between the general and State Legislatures?

Is commerce so much the basis of the existence of the United States as to call for a bankrupt law? On the contrary, are we not almost merely agricultural? Should not all laws be made with a view essentially to the poor husbandmen? When laws are wanting for particular descriptions of other callings, should not the husbandmen be carefully excused from their operation, and preserved under that of the general system only; which general system is fitted to the condition of husbandmen?

XXV.

Heads of conversation with Mr. Hammond.

That I communicated to the President his information of the consent of the Western Indians to hold conferences of peace with us, in the presence of Governor Simcoe:—took care to apprize him of the informality of the conversation;—that it was acci-

dental ;—private ;—the present to be considered equally so :—unnecessary to note to him that nothing like a mediation was suggested. 1st. Because so informal a conversation could not include so formal a thing as a mediation. 2d. Because, an established principle of public law among the white nations of America, that while the Indians included within their limits retain all other national rights, no other white nations can become their patrons, protectors, or mediators, nor in any shape intermeddle between them and those within whose limits they are. That Great Britain would not propose an example which would authorize us to cross our boundary, and take under our protection the Indians within her limits. 3d. Because, should the treaty prove ineffectual, it would singularly commit the friendship of the two nations.

That the idea of Governor Simcoe's attendance was presented only as a thing desired by the Indians : that the consequences of this had been considered. It is not necessary in order to effect a peace. Our views so just, so moderate, that we have no fear of effecting peace if left to ourselves. If it cannot be effected, it is much better that nobody on the part of England should have been present ;—for however our government is persuaded of the sincerity of your assurances that you have not excited the Indians, yet our citizens in general are not so. It will be impossible to persuade them the negotiations were not defeated by British agents : that, therefore, we do not pretend to make the exclusion of Governor Simcoe a *sine qu i non*, provided he be there as a spectator, not as a *party*, yet we should consider his declining to attend, either by himself or any other person, as an instance of their friendship, and as an evidence of it particularly calculated to make due impression on the minds of our citizens. That the place fixed on by the Indians is extremely inconvenient to us, because of the distance and difficulty of transporting provisions there. Three hundred thousand rations will probably be requisite, if three thousand Indians attend. That if we had time, we would have proposed some other place, for example the Maumee towns ; but there not being time, we shall do our best to make provision. 1st. We

shall collect and carry as much as possible through the Miami channel. 2d. We shall hope for their permission to have purchases made in Upper Canada, and brought along the lake.

XXVI.

Instructions to Andrew Michaud for exploring the Western Boundary. January, 1793.

Sundry persons having subscribed certain sums of money for your encouragement to explore the country along the Missouri, and thence westwardly to the Pacific ocean, having submitted the plan of the enterprise to the directors of the American Philosophical society, and the society having accepted of the trust, they proceed to give you the following instructions:

They observe to you that the chief objects of your journey are to find the shortest and most convenient route of communication between the United States and the Pacific ocean, within the temperate latitudes, and to learn such particulars as can be obtained of the country through which it passes, its productions, inhabitants, and other interesting circumstances. As a channel of communication between these States and the Pacific ocean, the Missouri, so far as it extends, presents itself under circumstances of unquestioned preference. It has, therefore, been declared as a fundamental object of the subscription (not to be dispensed with) that this river shall be considered and explored as a part of the communication sought for. To the neighborhood of this river, therefore, that is to say, to the town of Kaskaskia, the society will procure you a conveyance in company with the Indians of that town now in Philadelphia.

From thence you will cross the Mississippi and pass by land to the nearest part of the Missouri above the Spanish settlements, that you may avoid the risk of being stopped.

You will then pursue such of the largest streams of that river as shall lead by the shortest way and the lowest latitudes to the Pacific ocean. When, pursuing those streams, you shall find

yourself at the point from whence you may get by the shortest and most convenient route to some principal river of the Pacific ocean, you are to proceed to such river, and pursue its course to the ocean. It would seem by the latest maps as if a river called Oregon, interlocked with the Missouri for a considerable distance, and entered the Pacific ocean not far southward of Nootka Sound. But the society are aware that these maps are not to be trusted so far as to be the ground of any positive instruction to you. They therefore only mention the fact, leaving to yourself to verify it, or to follow such other as you shall find to be the real truth.

You will in the course of your journey, take notice of the country you pass through, its general face, soil, rivers, mountains, its productions—animal, vegetable, and mineral—so far as they may be new to us, and may also be useful or very curious; the latitudes of places or material for calculating it by such simple methods as your situation may admit you to practice, the names, members, and dwellings of the inhabitants, and such particulars as you can learn of their history, connection with each other, languages, manners, state of society, and of the arts and commerce among them.

Under the head of animal history, that of the mammoth is particularly recommended to your inquiries, as it is also to learn whether the Lama or Paca of Peru, is found in those parts of this continent, or how far north they come.

The method of preserving your observations is left to yourself, according to the means which shall be in your power. It is only suggested that the noting them on the skin might be best for such as may be the most important, and that further details may be committed to the bark of the paper-birch, a substance which may not excite suspicions among the Indians, and little liable to injury from wet or other common accidents. By the means of the same substance you may perhaps find opportunities, from time to time, of communicating to the society information of your progress, and of the particulars you shall have noted.

When you shall have reached the Pacific ocean, if you find yourself within convenient distance of any settlement of Euro-

peans, go to them, commit to writing a narrative of your journey and observations, and take the best measure you can for conveying it thence to the society by sea.

Return by the same, or some other route, as you shall think likely to fulfil with most satisfaction and certainty the objects of your mission, furnishing yourself with the best proofs the nature of the case will admit of the reality and extent of your progress. Whether this shall be by certificates from Europeans settled on the western coast of America, or by what other means, must depend on circumstances. Ignorance of the country through which you are to pass, and confidence in your judgment, zeal, and discretion, prevent the society from attempting more minute instructions, and even from exacting rigorous observance of those already given, except, indeed, what is the first of all objects, that you seek for and pursue that route which shall form the shortest and most convenient communication between the higher parts of the Missouri and the Pacific ocean.

It is strongly recommended to you to expose yourself in no case to unnecessary dangers, whether such as might affect your health or your personal safety, and to consider this not merely as your personal concern, but as the injunction of science in general, which expects its enlargement from your inquiries, and of the inhabitants of the United States in particular, to whom your report will open new fields and subjects of commerce, intercourse, and observation.

If you reach the Pacific ocean and return, the society assign to you all the benefits of the subscription before mentioned. If you reach the waters only which run into that ocean, the society reserve to themselves the apportionment of the reward according to the conditions expressed in the subscription. If you do not reach even those waters they refuse all reward, and reclaim the money you may have received here under the subscription.

They will expect you to return to the city of Philadelphia to give in to them a full narrative of your journey and observations, and to answer the inquiries they shall make of you, still reserving to yourself the benefit arising from the publication of such parts of them as are in the said subscription reserved to you.

XXVII.

Memorandum relative to commissioners for laying off the federal city. March 11th, 1793.

Question 1st.—What sacrifice may be made to retain Mr. Johnson in the office of commissioner for the federal territory?

Answer.—For such an object, it is worth while to give up the plan of an allowance per diem; to give, instead of that, a sum in gross, and to extend that sum to five hundred dollars per annum, and expenses; the latter to be rendered in account.

If Mr. Johnson persists in resigning, as it is evident Dr. Stewart will not continue even for the above allowance, and Mr. Carroll does not appear to make any conditions, the President will be free as to Mr. Carroll and two new associates, to adhere to the allowance per diem already proposed, or to substitute a sum in gross.

Question 2d.—May new commissioners be chosen in the town?

Answer.—It is strongly desirable that the commissioners should not be of the town, nor interested in it; and this objection is thought a counterpoise for a sensible difference in talents; but if persons of adequate talents and qualifications cannot be found in the country, it will be better to take them from the town, than to appoint men of inadequate talents from the country.

Question 3d.—How compensate them?

Answer.—If they come from the country, the per diem allowance is thought best; if from the town, a sum in gross will be best, and this might be as far as three hundred dollars a year, and no allowance for expenses. If partly from the town, and partly from the country, then three hundred dollars a year to the former, and the same, with allowance of expenses, to the latter.

Mr. Madison, Mr. Randolph and Thomas Jefferson having consulted together on the preceding questions, with some shades of difference of opinion in the beginning, concurred ultimately and unanimously in the above answers.

XXVIII.

Note given to the President relative to Genet.

Mr. Genet's declaration to the President at his reception, that France did not wish to engage the United States in the present war by the clause of guarantee, but left her free to pursue her own happiness in peace, has been repeated to myself in conversation, and to others, and even in a public answer, so as to place it beyond question.

Some days after the reception of Mr. Genet (which was May 17th), I went to his house on business. The Attorney General went with me to pay his first visit. After he withdrew, Mr. Genet told me Mr. Fornant had delivered him my letter of May 15th on the four memorials of Mr. Hammond. He said something first of the case of the Grange, and then of the vessels armed at Charleston. He said that on his arrival there, he was surrounded suddenly by Frenchmen full of zeal for their country, pressing for authority to arm with their own means for its assistance: that they would fit out their own vessels, provide everything, man them, and only ask a commission from him: that he asked the opinion of Governor Moultrie on the subject, who said he knew no law to the contrary, but begged that whatever was to be done, might be done without consulting him: that he must know nothing of it, &c.: that hereupon he gave commission to the vessels: that he was of opinion that he was justified, not only by the opinions at Charleston, but by our treaties. I told him the President had taken full advice on the subject, had very maturely considered it, and had come to the decision expressed in my letter. He said he hoped the President had not so absolutely decided it, but that he would hear what was to be said against it. I told him I had no doubt but that the President, out of respect to him and his country, would receive whatever he should have to urge on the subject, and would reconsider it with candor. He said he would make it his business to write me a letter on the subject: that he thought the arming the privateers was justifiable; but

that if the President should finally decide otherwise (though he could not think it would be right), yet he must submit; for that assuredly his instructions were to do whatever would be agreeable to us. He showed, indeed, by his countenance, his manner, and words, that such an acquiescence would be with reluctance; but I was and am persuaded he then meant it.

Mr. Genet called at my office on Tuesday sennight, or fortnight, say (July 16th or 9th), but I think it was Tuesday sennight; and knew it was on a Tuesday, because he went from thence to the President's. He was summing up to me the strength of the French naval force now arrived. I took that occasion to observe to him, that having such great means in his hands, I thought he ought not to hesitate in abandoning to the orders of the government the little pickeroons which had been armed here unauthorized by them, and which occasioned so much embarrassment and uneasiness: that certainly their good dispositions must be worth more than the trifling services these little vessels could render. He immediately declared, that having such a force in his hands, he had abandoned every idea of further armament in our ports: that these small objects were now beneath his notice, and he had accordingly written to the consuls to stop everything further of that kind; but that as to those which had been fitted out before, their honor would not permit them to give them up, but he wished an oblivion of everything which had passed, and that in future the measure so disagreeable to the government should not be pursued, though he thought it clearly justifiable by the treaty. I told him the government was of a different opinion: that both parties indeed had equal right to construe the treaty: that, consequently, he had done his duty in remonstrating against our construction, but that since the government remained finally persuaded of the solidity of its own construction, and had a right to act accordingly within their own limits, it was now his duty, as a diplomatic man, to state the matter to his government, to ask and await their orders, and in the meantime to acquiesce, and by no means to proceed in opposition within our limits,

It was at the same time, he informed me, that he had sent out

the Little Democrat, July 26th, 1793, to obtain intelligence of the state of the coast, and whether it was safe for the fleet to proceed round from Norfolk to New York.

XXIX.

Rules for the regulation of our conduct towards the belligerent Powers recommended to the President for his adoption.

1st. The original arming and equipping of vessels in the ports of the United States by any of the belligerent powers for military service, offensive or defensive, is deemed unlawful.

2d. Equipments of merchant vessels by either of the belligerent parties in the ports of the United States, purely for the accommodation of them as such, is deemed lawful.

3d. Equipments in the ports of the United States of vessels of war in the immediate service of the government of any of the belligerent parties, which, if done to other vessels, would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize of the subjects, people or property of France, coming with their prizes into the ports of the United States, pursuant to the seventeenth article of our treaty of amity and commerce with France.

4th. Equipments in the ports of the United States by any of the parties at war with France, of vessels fitted for merchandise and war, whether with or without commissions, which are doubtful in their nature, as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize, &c.

5th. Equipments of any of the vessels of France in the ports of the United States, which are doubtful in their nature, as being applicable to commerce or war, are deemed lawful.

6th. Equipments of every kind in the ports of the United States of privateers of the powers at war with France, are deemed unlawful.

7th. Equipments of vessels in the ports of the United States which are of a nature solely adapted to war, are deemed unlaw-

ful; except those stranded or wrecked, as mentioned in the eighteenth article of our treaty with France, the sixteenth of our treaty with the United Netherlands, the ninth of our treaty with Prussia, and except those mentioned in the nineteenth article of our treaty with France, the seventeenth of our treaty with the United Netherlands, the eighteenth of our treaty with Prussia.

8th. Vessels of either of the parties not armed, or armed previous to their coming into the ports of the United States, which shall not have infringed any of the foregoing rules, may lawfully engage or enlist therein their own subjects, or aliens not being inhabitants of the United States, except privateers of the powers at war with France, and except those vessels which shall have made prize, &c.

August 3, 1793. The foregoing rules having been considered by us at several meetings, and being now unanimously approved, they are submitted to the President of the United States.

TH: JEFFERSON. ALEXANDER HAMILTON.
H. KNOX. EDW: RANDOLPH.

XXX.

Opinion relative to the propriety of convening the Legislature at an earlier period than that fixed by law. August 4th, 1793.

The President having been pleased to propose for consideration, the question whether it be proper or not to convene the Legislature at an earlier period than that at which it is to meet by law, and at what time? I am of opinion it will be proper.

1st. Because the protection of our southern frontiers seems to render indispensable a war with the Creeks, which cannot be declared nor provided for but by the Legislature, nor prudently undertaken by the Executive on account of the consequences it may involve with respect to Spain.

2d. Because several Legislative provisions are wanting to enable the government to steer steadily through the difficulties

daily produced by the war of Europe, and to prevent our being involved in it by the incidents and perplexities to which it is constantly giving birth.

3d. Because, should we be involved in it, which is every day possible, however anxiously we endeavor to avoid it, the Legislature, meeting a month earlier, will place them a month forwarder in their provisions for that state of things.

I think the first Monday in November would be a proper time for convening them, because, while it would gain a month in making provisions to prevent or prepare for war, it leaves such a space of time for their assembling as will avoid exciting alarm either at home or abroad.

XXXI.

Communication relative to our French relations. August 22d, 1793.

Thomas Jefferson has the honor to enclose to the President the letter of the National Assembly to him, of December 22d, 1792. Its most distinct object seems to have been to thank the United States for their measures to St. Domingo. It glances blindly, however, at commercial arrangements, and on the 19th of February, the same Assembly passed the decree putting our commerce in their dominions on the footing of natives, and directing their executive council to treat with us on the subject. On this the following questions arise:

1st. Would the President choose to answer the letter, acknowledging its receipt, thanking them in turn for the favors to our commerce, and promising to consult the constitutional powers (the Senate) on the subject of the treaty proposed?

2d. Would he rather choose to make no reply to the letter, but that Mr. Morris be instructed to negotiate a renewal of Mr. Genet's powers to treat, to his successor?

3d. Or would he choose that nothing be said on the subject to anybody?

If the President would in his judgment be for a treaty on the principles of the decree, or any modification of them, the 1st or 2d measure will be well to be adopted.

If he is against a treaty on those principles or any modification of them, the 3d measure seems to be the proper one.

XXXII.

Explanation of the origin of the principle that "free bottoms make free goods." Dec. 20th, 1793.

A doubt being entertained whether the use of the word *modern*, as applied to the *law of nations* in the President's proclamation, be not inconsistent with ground afterwards taken in a letter to Genet, I will state the matter while it is fresh in my mind,—beginning it from an early period.

It cannot be denied that according to the general law of nations, the goods of an enemy are lawful prize in the bottom of a friend, and the goods of a friend privileged in the bottom of an enemy; or in other words, that *the goods follow the owner*. The inconvenience of this principle in subjecting neutral vessels to vexatious searches at sea, has for more than a century rendered it usual for nations to substitute a *conventional* principle *that the goods shall follow the bottom*, instead of the *natural* one before mentioned. France has done it in all her treaties; so I believe had Spain, before the American Revolution. Britain had not done it. When that war had involved those powers, Russia, foreseeing that her commerce would be much harassed by the British ships, engaged Denmark, Sweden, and Portugal to arm, and to declare that the conventional principle should be observed by the powers at war, towards neutrals, and that they would make common cause against the party who should violate it; declaring expressly, at the same time, that that Convention should be in force only during the war then existing. Holland acceded to the Convention, and Britain instantly attacked her. But the other neutral powers did not think proper to comply with their

stipulation of making common cause. France declared at once that she would conform to the conventional principle. This in fact imposed no new obligation on her, for she was already bound by her treaties with all those powers to observe that principle. Spain made the same declaration. Congress gave similar orders to their vessels; but Congress afterwards gave instructions to their ministers abroad not to engage them in any future combination of powers for the general enforcement of the conventional principle that goods should follow the bottom, as this might at some time or other engage them in a war for other nations; but to introduce the principle separately with every nation by the treaties they were authorized to make with each. It had been already done with France and Holland, and it was afterwards done with Prussia, and made a regular part in every treaty they proposed to others. After the war, Great Britain established it between herself and France. When she engaged in the present war with France, it was thought extremely desirable for us to get this principle admitted by her, and hoping that as she had acceded to it in one instance, she might be induced to admit it as a principle now settled by the common consent of nations, (for every nation, belligerent or neutral, had stipulated it on one or more occasions,) that she might be induced to consider it as now become a *conventional* law of nations, I proposed to insert the word *modern* in the proclamation, to open upon her the idea that we should require the acquiescence in that principle as the condition of our remaining in peace. It was thought desirable by the other gentlemen; but having no expectation of any effect from it, they acquiesced in the insertion of the word, merely to gratify me. I had another view, which I did not mention to them, because I apprehended it would occasion the loss of the word.

By the ancient law of nations, *e. g.* in the time of the Romans, the furnishing a limited aid of troops, though stipulated, was deemed a cause of war. In latter times, it is admitted not to be a cause of war. This is one of the improvements in the law of nations. I thought we might conclude, by parity of reasoning, that the guaranteeing a limited portion of territory, in a stipulated case, might not, by the modern law of nations, be a

cause of war. I therefore meant by the introduction of that word, to lay the foundation of the execution of our guarantee, by way of negotiation with England. The word was, therefore, introduced, and a strong letter was written to Mr. Pinckney to observe to Great Britain that we were bound by our treaties with the other belligerent powers to observe certain principles during this war: that we were willing to observe the same principles towards her; and indeed, that we considered it as essential to proceed by the same rule to all, and to propose to her to select those articles concerning our conduct in a case of our neutrality from any one of our treaties which she pleased; or that we would take those from her own treaty with France, and make a temporary Convention of them for the term of the present war; and he was instructed to press this strongly. I told Genet that we had done this; but instead of giving us time to work our principles into effect by negotiation, he immediately took occasion in a letter, to threaten that if we did not resent the conduct of the British in taking French property in American bottoms, and protect their goods by *effectual measures* (meaning by arms), he would give direction that the principle of our treaty of goods following the bottom, should be disregarded. He was, at the same time, in the habit of keeping our goods taken in British bottoms; so that they were to take the gaining alternative of each principle, and give us the losing one. It became necessary to oppose this in the answer to his letter, and it was impossible to do it soundly, but by placing it on its true ground, to wit: that the law of nations established as a general rule that *goods should follow the owner*, and that the making them *follow the vessel* was an exception depending on special conventions only in those cases where the Convention had been made: that the exception had been established by us in our treaties with France, Holland, and Prussia, and that we should endeavor to extend it to England, Spain, and other powers; but that till it was done, we had no right to make war for the enforcement of it. He thus obliged us to abandon in the first moment the ground we were endeavoring to gain, that is to say, his ground against England and Spain, and to take the very ground of England and Spain against

him. This was my private reason for proposing the term *modern* in the proclamation; that it might reserve us a ground to obtain the very things he wanted. But the world, who knew nothing of these private reasons, were to understand by the expression the *modern law of nations*, that law with all the improvements and mollifications of it which an advancement of civilization in *modern* times had introduced. It does not mean strictly anything which is not a part of the *law of nations* in *modern* times, and therefore could not be inconsistent with the ground taken in the letter to Genet, which was that of the *law of nations*, and by no means could be equivalent to a declaration by the President of the specific principle, that *goods should follow the bottom.*

XXXIII.

An account of the Capitol in Virginia.

The Capitol in the city of Richmond, in Virginia, is the model of the Temples of Erectheus at Athens, of Balbec, and of the Maison quarrée of Nismes. All of which are nearly of the same form and proportions, and are considered as the most perfect examples of cubic architecture, as the Pantheon of Rome is of the spherical. Their dimensions not being sufficient for the purposes of the capitol, they were enlarged, but their proportions rigorously observed. The capitol is of brick, one hundred thirty-four feet long, seventy feet wide, and forty-five feet high, exclusive of the basement. Twenty-eight feet of its length is occupied by a portico of the whole breadth of the house, showing six columns in front, and two intercolonnations in flank. It is of a single order, which is Ionic; its columns four feet two inches diameter, and their entablature running round the whole building. The portico is crowned by a pediment, the height of which is two ninths of its span.

Within the body of the building, which is one hundred and six feet long, are two tier of rooms twenty-one feet high each.

In the lower, at one end, is the room in which the Supreme court sets, thirty feet by sixty-four feet with a vestibule fourteen feet by twenty-two feet, and an office for their clerk, fourteen feet by thirteen feet. In the other end is the room for the House of Delegates, thirty feet by sixty-four feet, with a lobby fourteen feet by thirty-six feet. In the middle is a room thirty-six feet square, of the whole height of the building, and receiving its light from above. In the centre of this room is a marble statue of General Washington, made at Paris, by Houdon, who came over to Virginia for the express purpose of taking his form. The statue is made accurately of the size of life. A peristile of columns in the same room, six feet from the wall, and twenty-two and a half feet high with their entablature, support a corridor above, serving as a communication for all the upper apartments, the stairs landing in it. In the upper tier is a Senate chamber thirty feet square, an office for their clerk, five rooms for committees and juries, an office for the clerk of the House of Delegates, a chamber for the Governor and Council, and a room for their clerk. In the basement of the building are the Land office, Auditor's office, and Treasury.

The drawings of the Façade and other elevations, were done by Clarissault, one of the most correct architects of France, and author of the antiquities of Nismes, among which was the Maison quarrée. The model in stucco was made under his direction, by an artist who had been employed many years in Greece, by the Count de Choiseul, ambassador of France at Constantinople, in making models of the most celebrated remains of ancient architecture in that country.

XXXIV.

To the Speaker and House of Delegates of the Commonwealth of Virginia, being a Protest against interference of Judiciary between Representative and Constituent.—1797.

The petition of the subscribers, inhabitants of the counties of Amherst, Albemarle, Fluvanna, and Coochland, sheweth:

That by the constitution of this State, established from its earliest settlement, the people thereof have professed the right of being governed by laws to which they have consented by representatives chosen by themselves immediately: that in order to give to the will of the people the influence it ought to have, and the information which may enable them to exercise it usefully, it was a part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive; and that their communications with their constituents should of right, as of duty also, be free, full, and unawed by any: that so necessary has this intercourse been deemed in the country from which they derive principally their descent and laws, that the correspondence between the representative and constituent is privileged there to pass free of expense through the channel of the public post, and that the proceedings of the legislature have been known to be arrested and suspended at times until the Representatives could go home to their several counties and confer with their constituents.

That when, at the epoch of Independence, the constitution was formed under which we are now governed as a commonwealth, so high were the principles of representative government esteemed, that the legislature was made to consist of two branches, both of them chosen immediately by the citizens; and that general system of laws was continued which protected the relations between the representative and constituent, and guarded the functions of the former from the control of the Judiciary and Executive branches.

That when circumstances required that the ancient confederation of this with the sister States, for the government of their common concerns, should be improved into a more regular and effective form of general government, the same representative principle was preserved in the new legislature, one branch of which was to be chosen directly by the citizens of each State, and the laws and principles remained unaltered which privilege the representative functions, whether to be exercised in the State or General Gov-

ernment, against the cognizance and notice of the co-ordinate branches, Executive and Judiciary; and for its safe and convenient exercise, the inter-communication of the representative and constituent has been sanctioned and provided for through the channel of the public post, at the public expense.

That at the general partition of this commonwealth into districts, each of which was to choose a representative to Congress, the counties of Amherst, Albemarle, Fluvanna, and Coochland, were laid off into one district: that at the elections held for the said district, in the month of April, in the years 1795 and 1797, the electors thereof made choice of Samuel Jordan Cabell, of the county of Amherst, to be their representative in the legislature of the general government; that the said Samuel Jordan Cabell accepted the office, repaired at the due periods to the legislature of the General Government, exercised his functions there as became a worthy member, and as a good and dutiful representative was in the habit of corresponding with many of his constituents, and communicating to us, by way of letter, information of the public proceedings, of asking and receiving our opinions and advice, and of contributing, as far as might be with right, to preserve the transactions of the general government in unison with the principles and sentiments of his constituents: that while the said Samuel J. Cabell was in the exercise of his functions as a representative from this district, and was in the course of that correspondence which his duty and the will of his constituents imposed on him, the right of thus communicating with them, deemed sacred under all the forms in which our government has hitherto existed, never questioned or infringed even by Royal judges or governors, was openly and directly violated at a Circuit court of the General Government, held at the city of Richmond, for the district of Virginia, in the month of May of this present year, 1790: that at the said court, A, B, &c., some of whom were foreigners, having been called upon to serve in the office of grand jurors before the said court, were sworn to the duties of said office in the usual forms of the law, the known limits of which duties are to make presentment of those acts of individuals which the laws

have declared to be crimes or misdemeanors: that departing out of the legal limits of their said office, and availing themselves of the sanction of its cover, wickedly and contrary to their fidelity to destroy the rights of the people of this commonwealth, and the fundamental principles of representative government, they made a presentment of the act of the said Samuel J. Cabell, in writing letters to his constituents in the following words, to wit: "We, of the grand jury of the United States, for the district of Virginia, present as a real evil, the circular letters of several members of the late Congress, and particularly letters with the signature of Samuel J. Cabell, endeavoring, at a time of real public danger, to disseminate unfounded calumnies against the happy government of the United States, and thereby to separate the people therefrom; and to increase or produce a foreign influence, ruinous to the peace, happiness, and independence of these United States."

That the grand jury is a part of the Judiciary, not permanent indeed, but in office, *pro hac vice* and responsible as other judges are for their actings and doings while in office: that for the Judiciary to interpose in the legislative department between the constituent and his representative, to control them in the exercise of their functions or duties towards each other, to overawe the free correspondence which exists and ought to exist between them, to dictate what communications may pass between them, and to punish all others, to put the representative into jeopardy of criminal prosecution, of vexation, expense, and punishment before the Judiciary, if his communications, public or private, do not exactly square with their ideas of fact or right, or with their designs of wrong, is to put the legislative department under the feet of the Judiciary, is to leave us, indeed, the shadow, but to take away the substance of representation, which requires essentially that the representative be as free as his constituents would be, that the same interchange of sentiment be lawful between him and them as would be lawful among themselves were they in the personal transaction of their own business; is to do away the influence of the people over the proceedings of their representatives by excluding from their

knowledge, by the terror of punishment, all but such information or misinformation as may suit their own views; and is the more vitally dangerous when it is considered that grand jurors are selected by officers nominated and holding their places at the will of the Executive: that they are exposed to influence from the judges who are nominated immediately by the Executive, and who, although holding permanently their commissions as judges, yet from the career of additional office and emolument *actually* opened to them of late, whether *constitutionally* or not, are under all those motives which interest or ambition inspire, of courting the favor of that branch from which appointments flow: that grand juries are frequently composed in part of bystanders, often foreigners, of foreign attachments and interests, and little knowledge of the laws they are most improperly called to decide on; and finally, is to give to the Judiciary, and through them to the Executive, a complete preponderance over the legislature, rendering ineffectual that wise and cautious distribution of powers made by the constitution between the three branches, and subordinating to the other two that branch which most immediately depends on the people themselves, and is responsible to them at short periods.

That independently of these considerations of a constitutional nature, the right of free correspondence between citizen and citizen on their joint interests, public or private, and under whatsoever laws these interests arise, is a natural right of every individual citizen, not the gift of municipal law, but among the objects for the protection of which municipal laws are instituted: that so far as the attempt to take away this natural right of free correspondence is an offence against the privileges of the legislative house, of which the said Samuel J. Cabell is a member, it is left to that house, entrusted with the preservation of its own privileges, to vindicate its immunities against the encroachments and usurpations of a co-ordinate branch; but so far as it is an infraction of our individual rights as citizens by other citizens of our own State, the judicature of this commonwealth is solely competent to its cognizance, no other possessing any powers of redress: that the commonwealth retains all its

judiciary cognizances not expressly alienated in the grant of powers to the United States as expressed in their constitution: that that constitution alienates only those enumerated in itself, or arising under laws or treaties of the United States made in conformity with its own tenor; but the right of free correspondence is not claimed under that constitution nor the laws or treaties derived from it, but as a natural right, placed originally under the protection of our municipal laws, and retained under the cognizance of our own courts.

Your petitioners further observe that though this crime may not be specifically defined and denominated by any particular statute, yet it is a crime, and of the highest and most alarming nature; that the constitution of this commonwealth, aware it would sometimes happen that deep and dangerous crimes, pronounced as such in the heart of every friend to his country and its free constitution, would often escape the definitions of the law, and yet ought not to escape its punishments, fearing at the same time to entrust such undescribed offences to the discretion of ordinary juries and judges, has reserved the same to the cognizance of the body of the commonwealth acting by their representatives in general assembly, for which purpose provision is made by the constitution in the following words, to wit: "The Governor, when he is out of office, and *others* offending against the State, either by mal-administration, corruption, *or other means* by which the safety of the State may be endangered, shall be impeachable by the House of Delegates. Such impeachment to be prosecuted by the Attorney General or such other person or persons as the house may appoint in the general court, according to the laws of the land. If found guilty, he or they shall be either forever disabled to hold any office under government, or removed from such offices *pro tempore*, or subjected to such pains or penalties as the law shall direct."

Considering then the House of Delegates as the standing inquest of the whole commonwealth so established by the constitution, that its jurisdiction as such extends over all persons within its limits, and that no pale, no sanctuary has been erected against their jurisdiction to protect offenders who have commit-

ted crimes against the laws of the commonwealth and rights of its citizens: that the crime committed by the said grand jurors is of that high and extraordinary character for which the constitution has provided extraordinary procedure: that though the violation of right falls in the first instance on us, your petitioners and the representative chosen immediately by us, yet in principle and consequence it extends to all our fellow-citizens, whose safety is passed away whenever their representatives are placed, in the exercise of their functions, under the direction and coercion of either of the other departments of government, and one of their most interesting rights is lost when that of a free communication of sentiment by speaking or writing is suppressed: We, your petitioners, therefore pray that you will be pleased to take your constitutional cognizance of the premises, and institute such proceedings for impeaching and punishing the said A, B, &c., as may secure to the citizens of this commonwealth their constitutional right: that their representatives shall in the exercise of their functions be free and independent of the other departments of government, may guard that full intercourse between them and their constituents which the nature of their relations and the laws of the land establish, may save to them the natural right of communicating their sentiments to one another by speaking and writing, and may serve as a terror to others attempting hereafter to subvert those rights and the fundamental principles of our constitution, to exclude the people from all direct influence over the government they have established by reducing that branch of the legislature which they choose directly, to a subordination under those over whom they have but an indirect, distant, and feeble control.

And your petitioners further submit to the wisdom of the two houses of assembly whether the safety of the citizens of this commonwealth in their persons, their property, their laws, and government, does not require that the capacity to act in the important office of a juror, grand or petty, civil or criminal, should be restrained in future to native citizens of the United States, or such as were citizens at the date of the treaty of peace which closed our revolutionary war, and whether the ignorance of our

laws and natural partiality to the countries of their birth are not reasonable causes for declaring this to be one of the rights incommunicable in future to adoptive citizens.

We, therefore, your petitioners, relying with entire confidence on the wisdom and patriotism of our representatives in General assembly, clothed preëminently with all the powers of the people which have not been reserved to themselves, or enumerated in the grant to the General Government delegated to maintain all their rights and relations not expressly and exclusively transferred to other jurisdictions, and stationed as sentinels to observe with watchfulness and oppose with firmness all movements tending to destroy the equilibrium of our excellent but complicated machine of government, invoke from you that redress of our violated rights which the freedom and safety of our common country calls for. We denounce to you a great crime, wicked in its purpose, and mortal in its consequences unless prevented, committed by citizens of this commonwealth against the body of their country. If we have erred in conceiving the redress provided by the law, we commit the subject to the superior wisdom of this house to devise and pursue such proceedings as they shall think best; and we, as in duty bound, shall ever pray, &c.

XXXV.

Etiquette.

[Endorsed in Mr. Jefferson's hand: "This rough paper contains what was agreed upon."]

I. In order to bring the members of society together in the first instance, the custom of the country has established that residents shall pay the first visit to strangers, and, among strangers, first comers to later comers, foreign and domestic; the character of stranger ceasing after the first visits. To this rule there is a single exception. Foreign ministers, from the necessity of making themselves known, pay the first visit to the ministers of the nation, which is returned

II. When brought together in society, all are perfectly equal, whether foreign or domestic, titled or untitled, in or out of office.

All other observances are but exemplifications of these two principles.

I. 1st. The families of foreign ministers, arriving at the seat of government, receive the first visit from those of the national ministers, as from all other residents.

2d. Members of the Legislature and of the Judiciary, independent of their offices, have a right as strangers to receive the first visit.

II. 1st. No title being admitted here, those of foreigners give no precedence.

2d. Differences of grade among the diplomatic members, gives no precedence.

3d. At public ceremonies, to which the government invites the presence of foreign ministers and their families, a convenient seat or station will be provided for them, with any other strangers invited and the families of the national ministers, each taking place as they arrive, and without any precedence.

4th. To maintain the principle of equality, or of *pêle mêle*, and prevent the growth of precedence out of courtesy, the members of the Executive will practice at their own houses, and recommend an adherence to the ancient usage of the country, of gentlemen in mass giving precedence to the ladies in mass, in passing from one apartment where they are assembled into another.

XXXVI.

Charges exhibited to the President of the United States against the Honorable Arthur Sinclair, as Governor of the territory of the United States north-west of the river Ohio.

1st. He has usurped legislative powers by the erection of counties and location of the seats of justice, by proclamation, on his own sole authority.

2d. He has misused the power of negativing legislative acts,

by putting his negative on laws useful and necessary for the territory.

3d. He has refused to perform the duties of his office but on the payment of arbitrary fees not established by any lawful authority.

4th. He has negatived an act of the Legislature abolishing those fees, and passed their act giving him five hundred dollars —meant as a compensation for that abolition, thereby holding both the fees and the compensation.

5th. He has attempted to effect the dismemberment of the territory, and to destroy its constitutional boundaries, in order to prevent its advancement to those rights of self-government to which its numbers would entitle it.

6th. He has granted commissions generally during pleasure; but that of Attorney General to his own son during good behavior.

7th. He has endeavored arbitrarily to influence and control the proceedings of the Judiciary, and has revoked or effected a surrender of the commissions of those who have refused to bend to his will, (acknowledged, p. 22; revoked three commissions, p 32.)

8th. He has appointed persons residing out of a county to offices, the duties of which were to be habitually performed within them. (Acknowledged, p. 20, in the case of Robb, his son-in-law, made Recorder of Clermont though living in Hamilton—executed by deputy.)

9th. He has obstructed the organization and disciplining of a militia for the defence of the territory, by withholding the appointment of officers years after a law had passed establishing them.

10th. He has avowed his hostility to the form and substance of republican government.

1st. The ordinance in the paragraph respecting counties, speaks of laws adopted or made, which must refer both to the first and second stage of government; it then gives the Governor power to lay out counties from time to time, reserving a right to the Legislature thereafter to alter them. This may mean that the Governor is always to lay out first, and the Legislature thereafter to alter; or it may mean that the Governor is to lay out during

the first stage of government, and the Legislature to do it in the second, *reddendo singula singulis.* The first construction renders the power reserved the Legislature null, because the Governor having a negative will not permit the other branches to act against his opinion manifested in the original laying out. The second construction gives it full effect, and must therefore be understood to be that intended by Congress, who certainly meant to reserve a practicable right to the Legislature—not a nugatory one, and the rather as the forming counties is an act of law-making, not of the execution of a law. The place of dispensing justice may not seem essentially legislative at first view, but to rest naturally with those who are to dispense it; yet when we consider it in all its relations to public convenience as well as justice, at how early a date it was deemed a grievance in England, and fixed by law, and how universally so in these States, this gives a sure practical construction of what Congress must have intended.

2d. The policy of giving a negative on laws to the Executive seems to be: 1st, to provide protection against the Legislature for the other independent departments. 2d. To protect such portions of the citizens as might be oppressed by a local or partial interest happening to predominate in the Legislature at the moment. But not to set up the judgment of a single individual in cases of ordinary legislation against the collected wisdom of the nation. If these ideas be just, Governor Sinclair is guilty on the second charge.

5th. The ordinance permits the whole territory north-west of the Ohio to be divided by Congress into three or five States, and says, whenever any of the said *States* shall have sixty thousand inhabitants it shall be received in Congress. The change of boundary proposed by the late act of the north-west Legislature did divide the population into two parts, so that both would have been much longer reaching sixty thousand than if the boundaries remained fixed by the ordinance. That the act dismembered that portion of territory which claimed to be a State, is certain. That Governor Sinclair assented to it at least is certain. That he promoted it by his influence, and with a view to continue

himself and friends the longer in place and power, is suggested by many, and will be judged of by every one according to the opinion entertained of his attachment to his office, or his power of preserving his mind unbiassed by that attachment or any other particular views. See Sinclair's letter to Harrison, printed State papers, March 14th, 1800.

6th. The censure implied in this charge seems to be not so much in the Governor's giving commissions during pleasure in the judiciary line, though a tenure for life there is familiar, as the making the Attorney General an officer for life, a thing unprecedented, and its being in the case of his own son. The reason assigned by the Governor that he gave him this fixed tenure, because he at that time proposed himself to retire from office, and meant thus to protect his son against his successor, admits the fact charged, and is far from justifying it.

7th. Admitting the tenure of every commission, without any special limitation, to be during the will of him who grants it, the conduct of the three justices whose commission was revoked, and that of Mr. Finlay whose resignation was not accepted, is not sufficiently clear of blame to fix the charge of arbitrarily influencing and controlling the judiciary.

8th. This charge is admitted to be true by Governor Sinclair, in the case of his son-in-law, made Recorder of Clermont, while he lived in Hamilton. See pp. 20. He urges some matters in justification. Several other instances are stated by Worthington and Meigs. Will's case, p. 46.

9th. This cannot be decided but on a view of the laws.

4th. That one of these acts was meant as a compensation for the other, is not proved. See p. 24, 43.

3d. The real charge here is that the Governor and judges selected laws from the codes of the States to give themselves fees. I was a member of Congress, and I believe of the committee which prepared the first plan for the organization of the new States. A Legislature to be composed of the Governor and judges was a measure of necessity in the earliest stages of those territorial governments; yet we were sensible it was fundamentally wrong to submit freemen to laws made by officers of

the Executive. It was determined, then, they should not make laws themselves, but adopt from the codes of the States, which being passed by freemen for their own government, it was supposed would never be oppressive. But no one dreamt of their selecting laws to give themselves fees. For to what a length might not this be carried by entitling themselves to fees for every act which was allowed a fee in any single State. Their salaries were certainly understood to be in lieu of all emoluments; yet they early began this abuse. Governor Sinclair and his associates set the example. It was not unnoticed. But as every one had rather another should pass personal censures than himself, the first laws for this purpose were laid by myself before Congress with the other laws, without comment, the power of repealing being in them. Partly from much business, partly from no individual member being willing to come forward as the denunciator, the thing went on till the arbitrary and intolerable temper of Governor Sarjeant urged it on the notice of Congress. On the 12th of February, 1795, this among other legislative practices, had been disapproved by the House of Representatives, (report, p 8, 9, February 19, 1801,) and lost in the Senate. But February 19, 1801, a committee of friends to Sarjeant, appointed by his friend Sedgwick, reported it an abuse, but not proceeding from criminal intentions, and therefore resolved that there ought to be no further proceedings for mal-administration against him, to which resolution the House disagreed by a vote of fifty against thirty-eight, though a federal house; but this being late in the day of the 3d of March, 1801, on which day they were to rise, nothing further could be done. But Governor Sarjeant's time expiring soon after, his commission was not renewed for this among other reasons.

XXXVII.

Hints on the subject of Indian boundaries, suggested for consideration. December 29th, 1802.

An object, becoming one of great importance, is the establishment of a strong front on our western boundary, the Mississippi, securing us on that side, as our front on the Atlantic does towards the East. Our proceedings with the Indians should tend systematically to that object, leaving the extinguishment of title in the interior country to fall in as occasions may arise. The Indians being once closed in between strong settled countries on the Mississippi and Atlantic, will, for want of game, be forced to agriculture, will find that small portions of land, well improved, will be worth more to them than extensive forests unemployed, and will continually be parting with portions of them for money to buy stock, utensils, and necessaries for their farms and families.

On the Mississippi, we hold at present from our southern boundary to the Yazoo. From the Yazoo to the Ohio is the property of the Chickasaw, a tribe the most friendly to us, and at the same time the most adverse to the diminution of their lands. The portion of their territory of first importance to us, would be the slip between the Mississippi on the west, and on the east the Yazoo and the ridge dividing the waters of the Mississippi and Tennessee. Their main settlements are eastward of this. I believe they have few within this and towards the Mississippi. The method by which we may advance towards our object will be, 1, to press the encouragements to agriculture, by which they may see how little land will maintain them much better, and the advantage of exchanging useless deserts to improve their farms. 2. To establish among them a factory or factories for furnishing them with all the necessaries and comforts they may wish (spirituous liquors excepted), encouraging these, and especially their leading men, to run in debt for these beyond their individual means of paying; and whenever in that situation, they will always cede lands to rid themselves of debt. A factory about

the Chickasaw bluffs, would be tolerably central, and tney might admit us to tend corn for feeding the factory and themselves when at it, and even to fix some persons for the protection of the factory from the Indians west of the Mississippi, and others. After awhile we might purchase these, and add to it from time to time. 3. We should continue to increase and nourish their friendship and confidence by every act of justice and of favor which we can possibly render them. What we know in favor of the other Indians, should not constitute the measure of what we do for these, our views as to these being so much more important. This tribe is very poor, and they want necessaries with which we abound. We want lands with which they abound; and these natural wants seem to offer fair ground of mutual supply.

The country between the Mississippi and Illinois on one side, and the Ohio and Wabash on the other, is also peculiarly desirable to us, and is in a situation this moment which renders it particularly easy for us to acquire a considerable portion of it. It has belonged to the Kaskaskias, Cahokias and Piorias. The Cahokias (of whom the Michigaunis were a part) have been anticipated by the Sacs, the Piorias driven off, and the Kaskaskias decreased to a few families. Governor Harrison, in his letter of November 28th, 1802, says the Pioria chief has offered the right of his nation to these lands for a trifle. We should not fail to purchase it immediately. The Cahokias being extirpated, we have a right to their lands in preference to any Indian tribe, in virtue of our permanent sovereignty over it. He also says that Deloigne, the Kaskaskia chief, would make easy terms with us. I think we should be liberal in our offers to the Kaskaskians. They are now but a few families, exposed to numerous enemies, and unable to defend themselves, and would cede lands in exchange for protection. We might agree to their laying off one hundred acres of the best soil for every person, young and old, of their tribe, we might enclose it well for them in one general inclosure, give to every family utensils and stock sufficient for their portion of it, and give them an annuity in necessaries, on their ceding to us their whole country, on retaining for themselves only

a moderate range around their farms for their stock to range in; and we might undertake to protect them from their enemies. Having thus established ourselves in the rights of the Kaskaskias, Cahokias and Piorias, we should have to settle the boundaries between them and the Kickapoos, Powtawatamies and Weaws. We should press again the good will of these tribes by friendly acts, and of their chiefs by largesses, and then propose to run the line between us, to claim whatever can be said to be doubtful, offering them a liberal price for their pretensions, and even endeavoring to obtain from them a cession of so much of their acknowledged territory as they can be induced to part with.

As to the country on the Mississippi above the mouth of the Illinois, its acquisition is not pressing in the present state of things. It might be well to be inquiring into titles, and to claim whatever may have been abandoned or lost by its native owners, so as to prevent usurpation by tribes having no right; as also to purchase such portions as may be found in the occupation of small remnants of tribes nearly extinct and disposed to emigrate.

For the present, it is submitted to the consideration of the Secretary of War, whether instructions should not be immediately given to Governor Harrison to treat with the Piorias and Kaskaskias chiefs; as to the latter, which is most important, it would be easy to solicit and bring over by presents every individual of mature age.

XXXVIII.

Notes on the subject of the consular convention between the United States and France. May 3d, 1803.

In 1784 a convention was entered into between Dr. Franklin and the Count de Vergennes concerning consuls. It contained many things absolutely inadmissible by the laws of the several

States, and inconsistent with their genius and character. Dr. Franklin, not being a lawyer, and the project offered by the Count de Vergennes being a copy of the conventions which were established between France and the despotic States on the continent (for with England they never had one), he seems to have supposed it a formula established by universal experience, and not to have suspected that it might contain matters inconsistent with the principles of a free people. He returned to America soon after the signature of it. Congress received it with the deepest concern. They honored Dr. Franklin, they were attached to the French nation; but they could not relinquish fundamental principles. They declined ratifying it, and sent it back with new powers and instructions to Mr. Jefferson, who succeeded Dr. Franklin at Paris. The most objectionable matters were the privileges and exemptions given to the consuls, and their powers over persons of the nation, establishing a jurisdiction independent of that of the nation in which it was exercised, and uncontrollable by it. The French government valued these, because they then apprehended a very extensive emigration from France to the United States, which this convention enabled them to control. It was, therefore, with the utmost reluctance, and inch by inch, that they could be induced to relinquish these conditions. The following changes, however, were effected by the convention of 1788:

The clauses of the convention of 1784, clothing consuls with the privileges of the laws of nations, were struck out, and they were expressly subjected, in their persons and property, to the laws of the land.

The giving the right of sanctuary to their houses, was reduced to a protection of their chancery room and its papers.

Their coercive powers over passengers were taken away; and those whom they might have termed deserters of their nation, were restrained to deserted seamen only.

The clause allowing them to arrest and send back vessels, was struck out, and instead of it they were allowed to exercise a police over the ships of their nation generally.

So was that which declared the indelibility of the character

of subject, and the explanation and extension of the eleventh article of the treaty of amity.

The innovations in the laws of evidence were done away; and the convention, from being perpetual, was limited to twelve years.

Although strong endeavors were made to do away some other disagreeable articles, yet it was found that more could not be done without disturbing the good humor which Congress wished so much to preserve, and the limitation obtained for the continuance of the constitution insured our getting finally rid of the whole. Congress, therefore, satisfied with having so far amended their situation, ratified the convention of 1788 without hesitation.

To Mr. Wingate.

XXXIX.

*Resolutions relative to the alien and sedition laws.**

1. *Resolved*, That the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that, by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes,—delegated to that government certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force: that to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party: that the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that

* [Two copies of these resolutions are preserved among the manuscripts of the author, both in his own handwriting. One is a rough draught, and the other very neatly and carefully prepared. The probability is, that they are the original of the celebrated Kentucky Resolutions on the same subject.—Ed.]

would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among powers having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

2. *Resolved*, That the Constitution of the United States, having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies, and felonies committed on the high seas, and offences against the law of nations, and no other crimes whatsoever; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," therefore the act of Congress, passed on the 14th day of July, 1798, and intituled "An Act in addition to the act intituled An Act for the punishment of certain crimes against the United States," as also the act passed by them on the — day of June, 1798, intituled "An Act to punish frauds committed on the bank of the United States," (and all their other acts which assume to create, define, or punish crimes, other than those so enumerated in the Constitution,) are altogether void, and of no force; and that the power to create, define, and punish such other crimes is reserved, and, of right, appertains solely and exclusively to the respective States, each within its own territory.

3. *Resolved*, That it is true as a general principle, and is also expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States or the people: that thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessen-

ing their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated, rather than the use be destroyed. And thus also they guarded against all abridgment by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this State, by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference. And that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press:" thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press: insomuch, that whatever violated either, throws down the sanctuary which covers the others, and that libels, falsehood, and defamation, equally with heresy and false religion, are withheld from the cognizance of federal tribunals. That, therefore, the act of Congress of the United States, passed on the 14th day of July, 1798, intituled "An Act in addition to the act intituled An Act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void, and of no force.

4. *Resolved*, That alien friends are under the jurisdiction and protection of the laws of the State wherein they are: that no power over them has been delegated to the United States, nor prohibited to the individual States, distinct from their power over citizens. And it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," the act of the Congress of the United States, passed on the — day of July, 1798, intituled "An Act concerning aliens," which assumes powers over alien friends, not delegated by the Constitution, is not law, but is altogether void, and of no force.

5. *Resolved*, That in addition to the general principle, as well

as the express declaration, that powers not delegated are reserved, another and more special provision, inserted in the Constitution from abundant caution, has declared that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808:" that this commonwealth does admit the migration of alien friends, described as the subject of the said act concerning aliens: that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory: that to remove them when migrated, is equivalent to a prohibition of their migration, and is, therefore, contrary to the said provision of the Constitution, and void.

6. *Resolved*, That the imprisonment of a person under the protection of the laws of this commonwealth, on his failure to obey the simple *order* of the President to depart out of the United States, as is undertaken by said act intituled "An Act concerning aliens," is contrary to the Constitution, one amendment to which has provided that "no person shall be deprived of liberty without due progress of law;" and that another having provided that "in all criminal prosecutions the accused shall enjoy the right to public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence," the same act, undertaking to authorize the President to remove a person out of the United States, who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without hearing witnesses in his favor, without defence, without counsel, is contrary to the provision also of the Constitution, is therefore not law, but utterly void, and of no force: that transferring the power of judging any person, who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides that "the judicial power of the United States shall be vested in courts, the judges of which shall hold their offices

during good behavior;" and that the said act is void for tha reason also. And it is further to be noted, that this transfer of judiciary power is to that magistrate of the general government who already possesses all the Executive, and a negative on all Legislative powers.

7. *Resolved*, That the construction applied by the General Government (as is evidenced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress a power "to lay and collect taxes, duties, imports, and excises, to pay the debts, and provide for the common defence and general welfare of the United States," and "to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the government of the United States, or in any department or officer thereof," goes to the destruction of all limits prescribed to their power by the Constitution: that words meant by the instrument to be subsidiary only to the execution of limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part to be so taken as to destroy the whole residue of that instrument: that the proceedings of the General Government under color of these articles, will be a fit and necessary subject of revisal and correction, at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8th. *Resolved*, That a committee of conference and correspondence be appointed, who shall have in charge to communicate the preceding resolutions to the Legislatures of the several States; to assure them that this commonwealth continues in the same esteem of their friendship and union which it has manifested from that moment at which a common danger first suggested a common union: that it considers union, for specified national purposes, and particularly to those specified in their late federal compact, to be friendly to the peace, happiness and prosperity of all the States: that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States

all the powers of self-government and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness or prosperity of these States; and that therefore this commonwealth is determined, as it doubts not its co-States are, to submit to undelegated, and consequently unlimited powers in no man, or body of men on earth: that in cases of an abuse of the delegated powers, the members of the general government, being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy: that every State has a natural right in cases not within the compact, (casus non fœderis,) to nullify of their own authority all assumptions of power by others within their limits: that without this right, they would be under the dominion, absolute and unlimited, of whosoever might exercise this right of judgment for them: that nevertheless, this commonwealth, from motives of regard and respect for its co-States, has wished to communicate with them on the subject: that with them alone it is proper to communicate, they alone being parties to the compact, and solely authorized to judge in the last resort of the powers exercised under it, Congress being not a party, but merely the creature of the compact, and subject as to its assumptions of power to the final judgment of those by whom, and for whose use itself and its powers were all created and modified: that if the acts before specified should stand, these conclusions would flow from them; that the general government may place any act they think proper on the list of crimes, and punish it themselves whether enumerated or not enumerated by the constitution as cognizable by them: that they may transfer its cognizance to the President, or any other person, who may himself be the accuser, counsel, judge and jury, whose *suspicions* may be the evidence, his *order* the sentence, his *officer* the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of the inhabitants of these States being, by this precedent, reduced, as outlaws, to the absolute dominion of one man, and the barrier of the Consti-

tution thus swept away from us all, no rampart now remains against the passions and the powers of a majority in Congress to protect from a like exportation, or other more grievous punishment, the minority of the same body, the legislatures, judges, governors and counsellors of the States, nor their other peaceable inhabitants, who may venture to reclaim the constitutional rights and liberties of the States and people, or who for other causes, good or bad, may be obnoxious to the views, or marked by the suspicions of the President, or be thought dangerous to his or their election, or other interests, public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather, has already followed, for already has a sedition act marked him as its prey: that these and successive acts of the same character, unless arrested at the threshold, necessarily drive these States into revolution and blood, and will furnish new calumnies against republican government, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron: that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism—free government is founded in jealousy, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions, to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which, and no further, our confidence may go; and let the honest advocate of confidence read the Alien and Sedition acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits. Let him say what the government is, if it be not a tyranny, which the men of our choice have conferred on our President, and the President of our choice has assented to, and accepted over the friendly strangers to whom the mild spirit of our country and its laws have pledged hospitality and protection: that the men of our choice have more respected the bare *suspicions* of the President, than the solid right of innocence, the claims of justification, the sacred force of truth, and the forms

and substance of law and justice. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution. That this commonwealth does therefore call on its co-States for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein before specified, plainly declaring whether these acts are or are not authorized by the federal compact. And it doubts not that their sense will be so announced as to prove their attachment unaltered to limited government, whether general or particular. And that the rights and liberties of their co-States will be exposed to no dangers by remaining embarked in a common bottom with their own. That they will concur with this commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration that that compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise over these States, of all powers whatsoever: that they will view this as seizing the rights of the States, and consolidating them in the hands of the General Government, with a power assumed to bind the States, (not merely as the cases made federal, (casus fœderis,) but) in all cases whatsoever, by laws made, not with their consent, but by others against their consent: that this would be to surrender the form of government we have chosen, and live under one deriving its powers from its own will, and not from our authority; and that the co-States, recurring to their natural right in cases not made federal, will concur in declaring these acts void, and of no force, and will each take measures of its own for providing that neither these acts, nor any others of the General Government not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories.

9th. *Resolved*, That the said committee be authorized to communicate by writing or personal conferences, at any times or places whatever, with any person or persons who may be appointed by any one or more co-States to correspond or confer with them; and that they lay their proceedings before the next session of Assembly.

XL.

Dr. Stevens' case. June 12th,* 1804.

I consider the annual act which appropriates a given sum to the expenses of intercourse with foreign nations, as a sufficient authority to the President (the constitutional organ of foreign intercourse) to expend that sum for the purposes of foreign intercourse at his discretion. If he abuses that discretion, he is responsible for it in a constitutional way. The legal restrictions on this power are, 1. That for outfit or compensation for personal services and expenses to certain specified grades (which are those chiefly used by the United States), not more than specified sums shall be allowed. 2. That the whole expenses shall not exceed the sum appropriated. 3. That an account of the expenditure shall be rendered. The sum on which these restrictions leave the executive discretion to act, is too small to excite any rational jealousy, or to render it useful to restrict it further by rigorous and unusual constructions. The executive, therefore, is believed to be free to make allowance to the specified grades for any object than those (for personal services and expenses), and to employ any unspecified grade on such salary and allowance as he thinks proper within the limits of the whole appropriation. Nor is any law, or principle of law known, which would forbid the superadding these agencies and allowances for them to the ordinary functions of a court minister, &c. I consider the appointment, therefore, and allowance to Dr. Stevens to have been within the limits of the Executive authority.

* June 12th, 1804.

Mr. Gallatin,—On the subject of Dr. Stevens' case, I had, before receiving your letter, endeavored to form as correct a judgment as I could, and had made some notes, keeping them open till I might see whether anything further should be added. I have this morning put them into some form. Of the purity of the motives of your objections, it was impossible I should ever entertain a moment's doubt. Of my opinion of their solidity, you will see a proof in the conclusions I have drawn, and which will probably condemn more than the half of Dr. Stevens' claims. I enclose you a copy of my opinion on the subject, which may serve as the direction of the Department of State to the comptroller. Accept my affectionate salutations.

Whenever it is agreed between two parties that certain services shall be performed by the one for the other, and no special compensation is stipulated, the law understands their intention to be that a *quantum meruit*, or a reasonable compensation shall be allowed. Such an agreement will therefore be implied by law in the case of Dr. Stevens. What is that reasonable compensation? Not his expenses, however extravagant, even if a contract could be proved that his expenses were to be paid. The law understands such a promise to mean his reasonable expenses only. His functions were in a certain degree of a diplomatic nature. Yet the government to which he was sent, not being independent, he could not be invested formally with any diplomatic grade. If we place him, therefore, on the level of the lowest grade, that of a chargé des affaires, and make that the measure of his *quantum meruit*, we shall do him full justice. No circumstance justifies his assuming a higher place.

But shall he be considered as a permanent agent, and therefore entitled to an outfit, or only as an occasional one to be allowed the reasonable expenses of his passage, which is the rule with occasional diplomatic agents? His not having been nominated to the Senate clearly excludes him from the character of a permanent agent, if it does not take from him all legal character after their first session following his appointment. To draw such a line as will admit the Executive, during the recess of the Senate, to despatch a special agent for a particular purpose without awaiting their approbation, and yet not enable him, by continuing that agent permanently, to evade the constitutional approbation of the Senate, and to keep up a separate corps of diplomacy of his own, will require great consideration, caution and candor, and until it be done, great attention in the Executive to keep within unquestionable bounds. I do not think, however, that the right of Dr. Stevens ought to depend on that definition. An individual who is employed by the highest public functionary to do a public service within the line of his authority, is bound to consider him as acting with legal powers, and as alone charged with all the responsibility if he transcends his powers. Dr. Stevens had a right to expect the Executive would nominate him

to the Senate for approbation, if that nomination was necessary. He proceeds in his duty, and supposes the Executive does the same, and ought not to lose his right by the failure of the latter. The public in such case should pay the individual, and take on themselves the measures necessary to prevent similar infractions of the Constitution in future.

Questions meriting great consideration, have been made as to the sufficiency of the evidence offered in support of Dr. Stevens' claims. The settling by a *quantum meruit*, the claim (for personal services and expenses) gets rid of this question so far. For that the services were performed is notorious, and that it was by public authority, results from the whole correspondence. It has been suspected, indeed, that there was no contract, nor any other reward intended than certain privileges of commerce. But this is not the way the United States pay their servants. Monopolizing compensations are among the most fatal abuses which some governments practice from false economy. They are not the usage here, and if suggested, the *onus probandi* is thrown on the party suggesting it. The law will presume a fair and usual contract, but not one which is improper and unusual.

The claim for travelling expenses within the limits of his agency, would require proof of positive contract. When an agent for a limited district, is sent into another, his expenses have been usually allowed; but never those of travelling to and from places within his regular care, and for the regular purposes of that care. His general allowance compensates his general superintendence over the whole, and to pay him for visiting each particular part also, would be a double payment. This would lead to endless claims and difficulties.

The hire of despatch vessels has been attended with such singular circumstances as excite almost invincible suspicion that they came on the ordinary business of the mercantile house. This means of conveying information is so expensive, that it is not allowed even to diplomatic agencies, but on great and important emergencies, on each of which as it arises, the Department of State will decide, at the risk of the agent venturing on it. Whether these despatch vessels came purely on public ac-

count, and whether the matter they were charged with justified the expense, should be strictly inquired into.

Inquiry will doubtless also be made, 1, whether Mr. Yard's connection in interest with Dr. Stevens will admit him to be a witness in this case; and 2, if it does, his testimony will be estimated, as every other man's is which is given under circumstances of bias of which he is not sensible himself.

In deciding on these questions of evidence, we are bound to proceed by the same laws of evidence which govern the courts of justice. These are the laws of the land, admitting no exceptions of person, public or private. The laws in refusing an appeal to the ordinary tribunals in questions between an individual and the public, and leaving the decision in the executive department, has changed the judge in this instance, but not the law. It has given judiciary but not legislative powers; and the laws of the land are the inheritance and the right of every man, before whatever tribunal he is brought. For instance, that a contract need not be on record; that it may be by parol as well as in writing, that a written contract may be controlled by verbal agreement or other intrinsic matter, are principles of law to which Dr. Stevens is entitled on the one hand, as it is our duty, on the other, to bring his claims to the test of law, to sift the facts on which they rest by the common rules of evidence, and to decide according to these on every item of his accounts, not weakly to relieve an individual by giving him the public money, nor arbitrarily to withhold by public power what is justly due to an individual. This investigation cannot be better trusted than to the justice and judgment of the comptroller, to whom therefore it is referred.

XLI.

Notes on a Draught for a second Inaugural Address.

The former one was an exposition of the principles on which I thought it my duty to administer the government. The second, then, should naturally be a *compte rendu*, or a statement of

facts showing that I have conformed to those principles. The former was *promise:* this is *performance.* Yet the nature of the occasion requires that detail should be avoided; that the most prominent heads only should be selected, and these placed in a strong light, but in as few words as possible. These heads are foreign affairs, domestic ditto, viz.: Taxes, Debts, Louisiana, Religion, Indians, the Press. None of these heads need any commentary but that of Indians. This is a proper topic, not only to promote the work of humanizing our citizens towards these people, but to conciliate to us the good opinion of Europe on the subject of the Indians. This, however, might have been done in half the compass it here occupies. But every respecter of science, every friend to political reformation, must have observed with indignation the hue and cry raised against philosophy and the rights of man; and it really seems as if they would be overborne, and barbarism, bigotry, and despotism, would recover the ground they have lost by the advance of the public understanding. I have thought the occasion justified some discountenance of these anti-social doctrines, some testimony against them. But not to commit myself in direct warfare on them, I have thought it best to say what is directly applied to the Indians only, but admits by inference a more general extension.

XLII.

Farewell Address to Th: Jefferson, President of the United States.

[Agreed to by both Houses, Feb. 7, 1809.]

Sir,—The General Assembly of your native State cannot close their session, without acknowledging your services in the office which you are just about to lay down, and bidding you a respectful and affectionate farewell.

We have to thank you for the model of an administration

conducted on the purest principles of republicanism; for pomp and state laid aside; patronage discarded; internal taxes abolished; a host of superfluous officers disbanded; the monarchic maxim "that a national debt is a national blessing," renounced, and more than thirty-three millions of our debt discharged; the native right to nearly one hundred millions of acres of our national domain extinguished; and, without the guilt or calamities of conquest, a vast and fertile region added to our country, far more extensive than her original possessions, bringing along with it the Mississippi and the port of Orleans, the trade of the west to the Pacific Ocean, and in the intrinsic value of the land itself, a source of permanent and almost inexhaustible revenue. These are points in your administration which the historian will not fail to seize, to expand, and teach posterity to dwell upon with delight. Nor will he forget our peace with the civilized world, preserved through a season of uncommon difficulty and trial; the good will cultivated with the unfortunate aborigines of our country, and the civilization humanely extended among them; the lesson taught the inhabitants of the coast of Barbary, that we have the means of chastising their piratical encroachments, and awing them into justice; and that theme, on which, above all others, the historic genius will hang with rapture, the liberty of speech and of the press preserved inviolate, without which genius and science are given to man in vain.

In the principles on which you have administered the government, we see only the continuation and maturity of the same virtues and abilities, which drew upon you in your youth the resentment of Dunmore. From the first brilliant and happy moment of your resistance to foreign tyranny, until the present day, we mark with pleasure and with gratitude the same uniform, consistent character, the same warm and devoted attachment to liberty and the republic, the same Roman love of your country, her rights, her peace, her honor, her prosperity.

How blessed will be the retirement into which you are about to go! How deservedly blessed will it be! For you carry with you the richest of all rewards, the recollection of a life well spent in the service of your country, and proofs the most deci-

sive, of the love, the gratitude, the veneration of your countrymen.

That your retirement may be as happy as your life has been virtuous and useful; that our youth may see in the blissful close of your days, an additional inducement to form themselves on your model, is the devout and earnest prayer of your fellow citizens who compose the General Assembly of Virginia.

XLIII.

Notes on Fifth Volume of Marshall's Life of Washington.

Page 2. "*The practicability of perpetuating his authority,*" *&c.* I am satisfied that General Washington had not a wish to perpetuate his authority; but he who supposes it was practicable, had he wished it, knows nothing of the spirit of America, either of the people or of those who possessed their confidence. There was indeed a cabal of the officers of the army who proposed to establish a monarchy and to propose it to General Washington. He frowned indignantly at the proposition, [according to the information which got abroad,] and Rufus King and some few civil characters, chiefly [indeed, I believe, to a man] north of Maryland, who joined in this intrigue. But they never dared openly to avow it, knowing that the spirit which had produced a change in the form of government was alive to the preservation of it.

Page 28. The member of Congress here alluded to was myself, and the extracts quoted, was part of a letter from myself in answer to one General Washington wrote. (See both.) General Washington called on me at Annapolis (where I then was as a member of Congress), on his way to the meeting of the Cincinnati in Philadelphia. We had much conversation on the institution, which was chiefly an amplification of the sentiments in our letters, and, in conclusion, after I had stated to him the modifications which I thought might remove all jealousies, as

well as dangers, and the parts which might still be retained, he appeared to make up his mind, and said: "No! not a fibre of it must be retained—no half-way reformation will suffice. If the thing be bad, it must be totally abolished." And he declared his determination to use his utmost endeavors to have it entirely abolished. On his return from Philadelphia he called on me again at Annapolis, and sat with me until a very late hour in the night, giving me an account of what passed in their convention. The sum of it was that he had exerted his whole influence in every way in his power to procure an abolition; that the opposition to it was extreme, and especially from some of the younger members; but that after several days of struggle within doors and without, a general sentiment was obtained for its entire abolition. Whether any vote had been taken on it or not, I do not remember; but his affirmation to me was, that within a few days (I think he said two or three) it would have been formally abolished. Just in that moment arrived Major L'Enfant, who had been sent to France to procure the Eagles, and to offer the order to the French officers who had served in America. He brought the King's permission to his officers to accept it, the letters of thanks of these officers accepting it, letters of solicitation from other officers to obtain it, and the Eagles themselves. The effect of all this on the minds of the members was to undo much of what had been done; to rekindle all the passions which had produced the institution, and silence all the dictates of prudence, which had been operating for its abolition. After this, the General said, the utmost that could be effected was the modification which took place, and which provided for its extinction with the death of the existing members. He declined the Presidency, and, I think, Baron Steuben was appointed. I went soon after to France. While there, M. de Meunier, charged with that part of the Encyclopedie Methodique which relates to economy politique and diplomatique, called on me with the article of that dictionary, "Etats Unis," which he had prepared ready for the press, and begged I would revise it and make any notes on it which I should think necessary towards rendering it correct. I furnished him most of the matter of his fifth,

sixth, eighth, ninth, and tenth sections of the article "Etats Unis," with which, however, he intermixed some of his own. The ninth is that which relates to the Cincinnati. On this subject, the section, as prepared by him, was an unjust and incorrect Philippic against General Washington and the American officers in general. I wrote a substitute for it, which he adopted, but still retaining considerable of his own matter, and interspersing it in various parts.

Page 33. "*In a government constituted*," *&c.* Here begins the artful complexion he has given to the two parties, Federal and Republican. In describing the first by their views and motives, he implies an opposition to those motives in their opponents which is totally untrue. The real difference consisted in their different degrees of inclination to Monarchy or Republicanism. The Federalists wished for everything which would approach our new government to a Monarchy. The Republicans to preserve it essentially Republican. This was the true origin of the division, and remains still the essential principle of difference between the two parties.

XLIV.

Scheme for a system of Agricultural Societies. March, 1811.

Several persons, farmers and planters of the county of Albemarle, having, during their visits and occasional meetings together, in conversations on the subjects of their agricultural pursuits, received considerable benefits from an intercommunication of their plans and processes in husbandry, they have imagined that these benefits might be usefully extended by enlarging the field of communication so as to embrace the whole dimensions of the State. Were practical and observing husbandmen in each county to form themselves into a society, commit to writing themselves, or state in conversations at their meetings to be written down by others, their practices and observations, their ex-

periences and ideas, selections from these might be made from time to time by every one for his own use, or by the society or a committee of it, for more general purposes. By an interchange of these selections among the societies of the different counties, each might thus become possessed of the useful ideas and processes of the whole; and every one adopt such of them as he should deem suitable to his own situation. Or to abridge the labor of such multiplied correspondences, a central society might be agreed on to which, as a common deposit, all the others should send their communications. The society thus honored by the general confidence, would doubtless feel and fulfil the duty of selecting such papers as should be worthy of entire communication, of extracting and digesting from others whatever might be useful, and of condensing their matter within such compass as might reconcile it to the reading, as well as to the purchase of the great mass of practical men. Many circumstances would recommend, for the central society, that which should be established in the county of the seat of government. The necessary relations of every county with that would afford facilities for all the transmissions which should take place between them. The annual meeting of the legislature at that place, the individuals of which would most frequently be members of their county societies, would give opportunities of informal conferences which might promote a general and useful understanding among all the societies; and presses established there offer conveniences entirely peculiar to that situation.

In a country, of whose interests agriculture forms the basis, wherein the sum of productions is limited by the quantity of the labor it possesses, and not of its lands, a more judicious employment of that labor would be a clear addition of gain to individuals as well as to the nation, now lost to both by a want of skill and information in its direction. Every one must have seen farms otherwise equal, the one producing the double of the other by the superior culture and management of its possessor; and every one must have under his eye numerous examples of persons setting out in life with no other possession than skill in agriculture, and speedily, by its sole exercise, acquire wealth and

independence. To promote, therefore, the diffusion of this skill, and thereby to procure, with the same labor now employed, greater means of subsistence and of happiness to our fellow citizens, is the ultimate object of this Association; and towards effecting it, we consider the following particulars among those most worthy of the attention of the societies proposed.

1st. And principally the cultivation of our primary staples of wheat, tobacco, and hemp, for market.

2d. All subsidiary articles for the support of the farm, the food, the clothing and the comfort of the household, as Indian corn, rye, oats, barley, buckwheat, millet, the family of peas and beans, the whole family of grasses, turnips, potatoes, Jerusalem artichokes, and other useful roots, cotton and flax, the garden and orchard.

3d. The care and services of useful animals for the saddle or draught, for food or clothing, and the destruction of noxious quadrupeds, fowls, insects, and reptiles.

4th. Rotations of crops, and the circumstances which should govern or vary them, according to the varieties of soil, climate, and markets, of our different counties.

5th. Implements of husbandry and operations with them, among which the plough and all its kindred instruments for dividing the soil, holds the first place, and the threshing machine an important one, the simplification of which is a great desideratum. Successful examples, too, of improvement in the operations of these instruments would be an excitement to correct the slovenly and unproductive practices too generally prevalent.

6th. Farm buildings and conveniences, inclosures, roads, fuel, timber.

7th. Manures, plaster, green-dressings, fallows, and other means of ameliorating the soil.

8th. Calendars of works, showing how a given number of laborers and of draught animals are to be employed every day in the year so as to perform within themselves, and in their due time, according to the usual course of seasons, all the operations of a farm of given size. This being essential to the proportioning the labor to the size of the farm.

9th. A succinct report of the different practices of husbandry

in the county, including the bad as well as the good, that those who follow the former may read and see their own condemnation in the same page which offers better examples for their adoption. It is believed that a judicious execution of this article alone, might nearly supersede every other duty of the society, inasmuch as it would present every good practice which has occurred to the mind of any cultivator of the State for imitation, and every bad one for avoidance. And the choicest processes culled from every farm, would compose a course probably near perfection.

10th. The county communications being first digested in their respective societies, a methodical and compact digest and publication of these would be the duty of the central society; and on the judicious performance of this, would in a great degree depend the utility of the institutions, and extent of improvement flowing from them.

11th. That we may not deter from becoming members, those practical and observing husbandmen whose knowledge is the most valuable, and who are mostly to be found in that portion of citizens with whom the observance of economy is necessary, all duties of every kind should be performed gratis; and to defray the expenses of the central publication alone, each member should pay at the first stated meeting of his society in every year, —— dollars, for which he should be entitled to receive a copy of the publication bound in boards.

12th. The first association of ——— persons in any county notifying themselves as constituted to the central society, should be received as the society of the county making a part of the general establishment here proposed; but every county society should be free to adopt associate members, although residents of other counties, and to receive and avail the institution of communications from persons not members, whether in or out of their county.

We are far from presuming to offer this organization and these principles of constitution as complete, and worthy the implicit adoption of other societies. They are suggested only as propositions for consideration and amendment, and we shall readily accede to any others more likely to effect the purposes we have in view. We know that agricultural societies are already estab-

lished in some counties; but we are not informed of their particular constitutions. We request these to be admitted into their brotherhood, and to make with them parts of one great whole. We have learned that such a society is formed or forming at the seat of our government. We ask their affiliation, and give them our suffrage for the station of central society. We promise to all our zealous co-operation in promoting the objects of the institution, and to contribute our mite in exchange for the more abundant information we shall receive from others.

For these purposes we now constitute ourselves an agricultural society of the county of Albemarle, and adopt as rules for present observance, the principles before stated.

Our further organization shall be a President, Secretary and Treasurer, to be chosen at the first stated meeting to be held in every year, by a majority of the members present, provided those present be a majority of the existing members, and to continue in office until another election shall be made.

There shall be four stated meetings in ever year, to wit: on the first Mondays in January, April, July and October.

The place of meeting, and rules of the society, shall be established, revoked or altered, and new members admitted, at any of the stated meetings, by a majority of the attending members, if they be a majority of those present, not being less than one-fourth of the whole. And, lest the powers given to the greater quorum of a majority of the whole, should at any time remain unexercised from insufficient attendance, the same may be exercised by a resolution of the lesser quorum of one-fourth, passed at a stated meeting: provided it be confirmed at the next stated meeting, by either a greater or lesser quorum, and in the meantime have no force.

Those who for two whole years shall not have attended any stated meeting shall, *ipso facto*, cease to be members. And to ascertain at all times who are the existing members, the names of those attending every meeting shall be regularly entered in the journals of the society.

The President shall preside at all meetings when present, and when absent, a president *pro tempore* may be appointed for that purpose *by those present.*

XLV.

Observations on the force and obligation of the common law in the United States, on the occasion of Hardin's case, in Kentucky. November 11th, 1812.

The *common law of England* is that system of law which was established in that country anterior to the Magna Charta, 9 H. 3, before which period no statutes are extant of record. It is used in contradistinction to the term *statute law*, which comprehends all the laws passed by their Parliament from the Magna Charta down to this day.

The term *common law* is used also in contradistinction to the *chancery*, as when we speak of the doctrines or courts of the common law, the doctrines or courts of chancery, and then include the *statute law* also. In which sense the term is used, must always depend on the subject matter.

On the settlement of the colonies now composing the United States, and the establishment of a legislature in each of them, that legislature, in some cases, finding that the enacting a complete code of laws, which should reach every transaction needing legislative regulation, would be far beyond their time and abilities, adopted, by an express act of their own, the laws of England as they stood at that date, comprehending the common law, statutes to that period, and the chancery law. In other cases, instead of adopting them by an express statute of their own, they considered themselves as having brought with them, and been, even on their passage, under the constant obligation of the laws of the mother country, and on their arrival they continued to practice them without any act of adoption, which practice or usage is evidence that there was an adoption by general consent. In the case of Connecticut, they did not adopt the common law of England at all as their basis, but declared by an act of their own, that the law of God, as it stood revealed in the Old and New Testament, should be the basis of their laws, to be subject to such alterations as they should make. In all the cases where the common law, or laws of England, were adopted either ex-

pressly or tacitly, the legislatures held of course, and exercised the power of making additions and alterations.

As the different States were settled at very different periods, and the adoption for each State was the laws of England as they stood at the moment of the adoption by the State, it is evident that the system as adopted in 1607 by Virginia, was one thing, as by Pennsylvania was another thing, as by Georgia, in 1759, was still a different one. And when to this is added the very diversified modifications of the adoptive code, produced by the subsequent laws passed by the legislatures of the different States, the system of common law in force in any one State on the 24th of September, 1789, when Congress assumed the jurisdiction given them by the Constitution, was very different from the systems in force at the same moment in the several other States: that in all of these the common law was in force by virtue of the adoption of the State, express or tacit, and that it was not in force in Connecticut, because they had never adopted it.

Having settled, by way of preliminary, to what extent, and by what authority, the common law of England is the law of each of the States, we will proceed to consider how far, and by what authority, it is the law of the United States as a national government.

By the Constitution, the General Government has jurisdiction in all cases arising under the Constitution, under the (constitutional) laws of the United States, and under treaties; in all cases, too, of ambassadors, of admiralty jurisdiction, where the United States is a party, between a State or its citizens, or another State or its citizens, or a foreign State or its citizens.

The General Government, then, had a right to take under their cognizance all these cases, and no others. This might have been done by Congress, by passing a complete code, assuming the whole field of their jurisdiction, and applying uniformly to every State, without any respect to the laws of that State. But, like the State legislatures, who had been placed before in a similar situation, they felt that it was a work of too much time and difficulty to be undertaken. Observing, therefore, that (except cases of piracy and murder on the high seas) all the cases within

their jurisdiction must arise in some of the States, they declared by the act Sept. 24, 1789, c. 20, § 34, "That the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise provide, shall be regarded as rules of decision in trials at *common law* in the courts of the United States in cases where they apply."

Here, then, Congress adopt for each State the laws of that State; and among the laws so adopted were portions of the common law, greater or less in different States, and in force, not by any innate authority of its own, but by the adoption or enacting of it by the State authority.

Now what was the opinion to which this was opposed? Several judges of the General Government declared that "the common law of England is the unwritten law of the United States in their national and federal capacity." A State judge, in a printed work, lays it down as "certainly wrong to say that the judiciary power of the nation can exercise no authority but what depends for its principle on acts of the national legislature." And then quoting the preamble to the Constitution of the United States, which says that its object is "to insure domestic tranquillity, promote the general welfare," &c., he adds, that "what is here expressed is the *common law* of the whole country," and that "whatever is in opposition to it, whether treason, insurrection, sedition, murder, riot, assaults, batteries, thefts or robberies, may be punished as crimes, independent of any act of Congress." And opinions equivalent to this were declared by one party on the floor of Congress. This is the doctrine which the republicans declared heretical. They deny that Congress can pass any law not authorized by the Constitution, and that the judges can act on any law not authorized by Congress, or by the Constitution in very direct terms.

If the true doctrine then be, that certain portions of the common and statute law of England be in force in the different States by virtue of the adoption of that State, and in the federal courts of the same State by virtue of the adoption by Congress of the laws of that State within its limits, then whenever a case

is presented to a federal court, they are to ask themselves the following questions:

1. Is this case within any of the definitions of jurisdiction given by the Constitution to the General Government? If it be decided that it is, then

2. Has Congress by any positive statute assumed cognizance of this case as permitted them by the Constitution? To determine this question, the judge must first look into the statutes of Congress generally; if he finds it not there, he must look into the laws of the State, as well as that portion of the English code which the State may have adopted, as the acts passed specially by the legislature. If the case be actually found provided for in these laws, another question still remains, viz.:

3. Is the law of the State applicable to the analogous case of the General Government? for it may happen that a law of the State, adapted perfectly to its own organization and local circumstances, may not tally with the different organization or circumstances of the federal government. If the difference be such as to defeat the application, it must be considered as a case unprovided for by Congress, and not cognizable in their courts. Just so parts of the common or statute law of England are found by the State judges inapplicable to their State from a difference of circumstance. These differences of circumstance will be shaded off from nothing to direct inconsistence, and it will be only by many decisions on a great variety of cases that the line will at length be drawn.

Let us apply these questions to Hardin's case, which is simply this: Congress, by an express statute, 1802, c. 13, § 6, have made the murder of an Indian within the territory of the United States punishable by death. A murder is committed on an Indian in that territory. The murderers fly to Kentucky. They are demanded by the Governor of Indiana of the Governor of Kentucky; under whose authority our officer attempting to take them, they are protected by Hardin and others in arms.

1. Is this case within the jurisdiction of Congress? *Answer.* Congress having a right "to make all rules and regulations respecting the territory of the United States," have declared this to

be a case of murder. As they can "make all laws necessary and proper for carrying their powers into execution," they can make the protecting a murderer criminal in any part of the United States.

2. Has Congress assumed cognizance of the offence of Hardin? We must first examine whether the act of Congress, 1790, c. 9, § 22, takes in this offence. Then whether the laws of Kentucky, common, statute, or State law, as adopted by Congress, comprehend this offence.

3. Whether any difference of organization or other circumstance renders the law of Kentucky inapplicable to this offence, can be decided by those only who are particularly acquainted with that law.

XLVI.

Plan for Elementary Schools.

Poplar Forest, Sept 9th, 1817.

Dear Sir,—I promised you that I would put into the form of a bill my plan of establishing the Elementary Schools, without taking a cent from the Literary fund. I have had leisure at this place, to do this, and now send you the result. If twelve or fifteen hundred schools are to be placed under one general administration, an attention so divided will amount to a dereliction of them to themselves. It is surely better, then, to place each school at once under the care of those most interested in its conduct. In this way the Literary fund is left untouched to complete at once the whole system of education, by establishing a college in every district of about eighty miles square, for the second grade of education, to wit: languages, ancient and modern, and for the third grade a single University, in which the sciences shall be taught in their highest degree.

I should apologize, perhaps, for the style of this bill. I dislike the verbose and intricate style of the English statutes, and in our revised code I endeavored to restore it to the simple one of the

ancient statutes, in such original bills as I drew in that work. I suppose the reformation has not been acceptable, as it has been little followed. You, however, can easily correct this bill to the taste of my brother lawyers, by making every other word a "said" or "aforesaid," and saying everything over two or three times, so that nobody but we of the craft can untwist the diction, and find out what it means; and that, too, not so plainly but that we may conscientiously divide one half on each side. Mend it, therefore, in form and substance to the orthodox taste, and make it what it should be; or, if you think it radically wrong, try something else, and let us make a beginning in some way. No matter how wrong, experience will amend it as we go along, and make it effectual in the end.

I shall see you of course at our stated visitation, and hope all the gentlemen will consider Monticello as the rendezvous of the preceding day or evening.

I salute you with friendship and respect.

An Act for establishing Elementary Schools.

1. Be it enacted by the General Assembly of Virginia, that at the first session of the Superior Court in every county within this commonwealth, next ensuing the passage of this act, the judge thereof shall appoint three discreet and well-informed persons, residents of the county, and not being ministers of the gospel* of any denomination, to serve as visitors of the Elementary Schools in the said county; of which appointment the sheriff shall, within fifteen days thereafter deliver a certificate, under the hand of the clerk of the said court, to each of the persons so appointed.

2. The said visitors shall meet at the court-house of

* § 1. Ministers of the Gospel are excluded to avoid jealousy from the other sects, were the public education committed to the ministers of a particular one; and with more reason than in the case of their exclusion from the legislative and executive functions.

their county on the first county court day after they shall have received notice of their appointment, and afterwards at such times and places as they, or any two of them, with reasonable notice to the third, shall have agreed; and shall proceed to divide their county into wards,* by metes and bounds so designated as to comprehend each, about the number of militia sufficient for a company, and so also as not to divide, and throw into different wards† the lands of any one person held in one body; which division into wards shall, within six months from the date of their appointment, be completely designated, published, and reported, by their metes and bounds, to the office of the clerk of the Superior Court, there to be recorded, subject, however, to such alterations, from time to time afterwards, as changes of circumstances shall, in the opinion of the said visitors or their successors, with the approbation of the said court, render expedient.

3. The original division into wards being made, the visitors shall appoint days for the first meeting of every ward, at such place as they shall name within the same, of which appointment notice shall be given at least two weeks before the day of meeting, by advertisement at some public place within the ward, requiring every free, white male citizen, of full age, resident within the ward, to meet at the place, and by the hour of twelve of the day so appointed, at which meeting some one of the visitors shall also attend, and a majority of the said warders being in attendance, the

* § 2. This designation of the size of a ward is founded on these considerations: 1st. That the population which furnishes a company of militia will generally about furnish children enough for a school. 2d. That in most instances, at present, the militia captaincies being laid off compactly by known and convenient metes and bounds, many will be adopted without change, and others will furnish a canvas to work on and to reform. 3d. That these wards once established, will be found convenient and salutary aids in the administration of government, of which they will constitute the organic elements, and the first integral members in the composition of the military.

† § 3. The prohibition to place among different wards the lands of a single individual, held in a body is, 1st. To save the proprietor from the perplexity of multiplied responsibilities; and 2. To prevent arbitrary and inconsistent apportionments, by different wardens, of the comparative values of the different portions of his lands in their respective wards.

visitor present shall propose to them to decide by a majority of their votes,—1. The location of a school-house for the ward, and a dwelling-house for the teacher, (the owner of the ground consenting thereto.) 2. The size and structure of the said houses; and 3. Whether the same shall be built by the joint labor of the warders, or by their pecuniary contributions; and also 4. To elect by a plurality of their votes a warden, resident, who shall direct and superintend the said buildings, and be charged with their future care.

4. And if they decide that the said buildings * shall be erected by the joint labor of the warders, then all persons within the said ward liable to work in the highways, shall attend at the order of the warden, and, under his direction, shall labor thereon until completed, under the same penalties as provided by law to enforce labor on the highways. And if they decide on erection by pecuniary contributions, the residents and owners of property within the ward shall contribute toward the cost, each in proportion to the taxes they last paid to the State for their persons and for the same property: of which the sheriff or commissioners shall furnish a statement to the warden, who, according to the ratio of that statement, shall apportion and assess the quota of contribution for each, and be authorized to demand, receive, and apply the same to the purposes of the contribution, and to render account thereof, as in all other his pecuniary transactions for the school, to the visitors; and on failure of payment by any contributor, the sheriff, on the order of the warden, shall collect and render the same under like powers and regulations as provided for the collection of the public taxes. And in every case it shall be the duty of the warden to have the buildings completed within six months from the date of his election.

* § 4. It is presumed that the wards will generally build such log-houses for the school and teacher as they now do, and will join force and build them themselves, experience proving them to be as comfortable as they are cheap. Nor would it be advisable to build expensive houses in the country wards, which, from changes in their population, will be liable to changes of their boundaries and consequent displacements of their centre, drawing with it a removal of their school-house. In towns, better houses may be more safely built, or rented for both purposes.

5. It shall be the duty of the said visitors to seek and to employ for every ward,* whenever the number and ages of its children require it, a person of good moral character, qualified to

§ 5. Estimating eight hundred militia to a county, there will be twelve captaincies or wards in a county on an average. Suppose each of these, three years in every six, to have children enough for a school, who have not yet had three years schooling; such a county will employ six teachers, each serving two wards by alternate terms. These teachers will be taken from the laboring classes, as they are now, to wit: from that which furnishes mechanics, overseers and tillers of the earth; and they will chiefly be the cripples, the weakly and the old, of that class, who will have been qualified for these functions by the ward schools themselves. If put on a footing then, for wages and subsistence, with the young and the able of their class, they will be liberally compensated: say with one hundred and fifty dollars wages and the usual allowance of meat and bread. The subsistence will probably be contributed in kind by the warders, out of their family stock. The wages alone will be a pecuniary tax of about nine hundred dollars. To a county, this addition would be of about one-fifth of the taxes we now pay to the State, or about one-fifth of one per cent. on every man's taxable property; if tax can be called that which we give to our children in the most valuable of all forms, that of instruction. Were those schools to be established on the public funds, and to be managed by the Governor and council, or the commissioners of the Literary fund, brick houses to be built for the schools and teachers, high wages and subsistence given them, they would be badly managed, depraved by abuses, and would exhaust the whole Literary fund. While under the eye and animadversion of the wards, and the control of the wardens and visitors, economy, diligence, and correctness of conduct, will be enforced, the whole Literary fund will be spared to complete the general system of education, by colleges in every district for instruction in the languages, and an university for the whole of the higher sciences; and this, by an addition to our contributions almost insensible, and which, in fact, will not be felt as a burthen, because applied immediately and visibly to the good of our children.

A question of some doubt might be raised on the latter part of this section, as to the rights and duties of society towards its members, infant and adult. Is it a right or a duty in society to take care of their infant members in opposition to the will of the parent? How far does this right and duty extend?—to guard the life of the infant, his property, his instruction, his morals? The Roman father was supreme in all these: we draw a line, but where?—public sentiment does not seem to have traced it precisely. Nor is it necessary in the present case. It is better to tolerate the rare instance of a parent refusing to let his child be educated, than to shock the common feelings and ideas by the forcible asportation and education of the infant against the will of the father. What is proposed here is to remove the objection of expense, by offering education gratis, and to strengthen parental excitement by the disfranchisement of his child while uneducated. Society has certainly a right to disavow him whom they offer, and are not permitted to qualify for the duties of a citizen. If we do not force instruction, let us at least strengthen the motives to receive it when offered.

teach reading, writing, numeral arithmetic and geography, whose subsistence shall be furnished by the residents and proprietors of the ward, either in money or in kind, at the choice of each contributor, and in the ratio of their public taxes, to be apportioned and levied as on the failures before provided for. The teacher shall also have the use of the house and accommodations provided for him, and shall moreover receive annually such standing wages as the visitors shall have determined to be proportioned on the residents and proprietors of the ward, and to be paid, levied and applied as before provided in other cases of pecuniary contribution. At this school shall be received and instructed gratis, every infant of competent age who has not already had three years schooling. And it is declared and enacted, that no person unborn or under the age of twelve years at the passing of this act, and who is *compos mentis*, shall, after the age of fifteen years, be a citizen of this commonwealth until he or she can read readily in some tongue, native or acquired.

6. To keep up a constant succession of visitors, the judge of the Superior Court of every county shall at his first session in every bissextile year, appoint visitors as before characterized, either the same or others, at his discretion. And in case of the death or resignation of any visitor during the term of his appointment, or of his removal by the said judge for good cause, moral or physical, he shall appoint another to serve until the next bissextile appointment. Which visitors shall have their first meeting at their court house on the county court day next ensuing their appointment, and afterwards at such times and places as themselves or any two of them with reasonable notice to the third shall agree. But the election of wardens shall be annually, at the first meeting of the ward after the month of March, until which election the warden last elected shall continue in office.

7. All ward meetings shall be at their school house, and on a failure of the meeting of a majority of the wardens on the call of a visitor, or of their warden, such visitor or warden may call another meeting.

8. At all times when repairs or alterations of the buildings before provided for shall be wanting, it shall be the duty of the

warden or of a visitor, to call a ward meeting and to take the same measures towards such repairs or alterations as are herein before authorized for the original buildings.

9. When, on the application of any warden, authorized thereto by the vote of his ward, the judge of the Superior Court shall be of opinion that the contributors of any particular ward are disproportionably and oppressively overburthened with an unusual number of children of non-contributors of their ward, he may direct an order to the county court to assess in their next county levy the whole or such part of the extra burthen as he shall think excessive and unreasonable, to be paid to the warden for its proper use, to which order the said county court is required to conform.

10. The said teachers shall, in all things relating to the education and government of their pupils, be under the direction and control of the visitors; but no religious reading, instruction or exercise, shall be prescribed or practiced inconsistent with the tenets of any religious sect or denomination.

11. Some one of the visitors, once in every year at least, shall visit the several schools: shall inquire into the proceedings and practices thereat: shall examine the progress of the pupils, and give to those who excel in reading, in writing, in arithmetic, or in geography, such honorary marks and testimonies of approbation, as may encourage and excite to industry and emulation.

12. All decisions and proceedings of the visitors relative to the original designation of wards at any time before the buildings are begun, or changes of wards at any time after, to the quantum of subsistence, or wages allowed to the teacher, and to the rules prescribed to him for the education and government of his pupils, shall be subject to be controlled and corrected by the judge of the Superior Court of the county, on the complaint of any individual aggrieved or interested.

XLVII.

The solemn Declaration and Protest of the Commonwealth of Virginia, on the principles of the Constitution of the United States of America, and on the violations of them.

We, the General Assembly of Virginia, on behalf, and in the name of the people thereof, do declare as follows:

The States in North America which confederated to establish their independence of the government of Great Britain, of which Virginia was one, became, on that acquisition, free and independent States, and as such, authorized to constitute governments, each for itself, in such form as it thought best.

They entered into a compact, (which is called the Constitution of the United States of America,) by which they agreed to unite in a single government as to their relations with each other, and with foreign nations, and as to certain other articles particularly specified. They retained at the same time, each to itself, the other rights of independent government, comprehending mainly their domestic interests.

For the administration of their federal branch, they agreed to appoint, in conjunction, a distinct set of functionaries, legislative, executive, and judiciary, in the manner settled in that compact: while to each, severally, and of course, remained its original right of appointing, each for itself, a separate set of functionaries, legislative, executive, and judiciary, also, for administering the domestic branch of their respective governments.

These two sets of officers, each independent of the other, constitute thus a *whole* of government, for each State separately; the powers ascribed to the one, as specifically made federal, exercised over the whole, the residuary powers, retained to the other, exercisable exclusively over its particular State, foreign herein, each to the others, as they were before the original compact.

To this construction of government and distribution of its powers, the commonwealth of Virginia does religiously and affectionately adhere, opposing, with equal fidelity and firmness,

the usurpation of either set of functionaries on the rightful powers of the other.

But the federal branch has assumed in some cases, and claimed in others, a right of enlarging its own powers by constructions, inferences, and indefinite deductions from those directly given, which this assembly does declare to be usurpations of the powers retained to the independent branches, mere interpolations into the compact, and direct infractions of it.

They claim, for example, and have commenced the exercise of a right to construct roads, open canals, and effect other internal improvements within the territories and jurisdictions exclusively belonging to the several States, which this assembly does declare has not been given to that branch by the constitutional compact, but remains to each State among its domestic and unalienated powers, exercisable within itself and by its domestic authorities alone.

This assembly does further disavow and declare to be most false and unfounded, the doctrine that the compact, in authorizing its federal branch to lay and collect taxes, duties, imposts and excises to pay the debts and provide for the common defence and general welfare of the United States, has given them thereby a power to do whatever *they* may think, or pretend, would promote the general welfare, which construction would make that, of itself, a complete government, without limitation of powers; but that the plain sense and obvious meaning were, that they might levy the taxes necessary to provide for the general welfare, by the various acts of power therein specified and delegated to them, and by no others.

Nor is it admitted, as has been said, that the people of these States, by not investing their federal branch with all the means of bettering their condition, have denied to themselves any which may effect that purpose; since, in the distribution of these means they have given to that branch those which belong to its department, and to the States have reserved separately the residue which belong to them separately. And thus by the organization of the two branches taken together, have completely secured the first object of human association, the full improve-

ment of their condition, and reserved to themselves all the faculties of multiplying their own blessings.

Whilst the General Assembly thus declares the rights retained by the States, rights which they have never yielded, and which this State will never voluntarily yield, they do not mean to raise the banner of disaffection, or of separation from their sister States, co-parties with themselves to this compact. They know and value too highly the blessings of their Union as to foreign nations and questions arising among themselves, to consider every infraction as to be met by actual resistance. They respect too affectionately the opinions of those possessing the same rights under the same instrument, to make every difference of construction a ground of immediate rupture. They would, indeed, consider such a rupture as among the greatest calamities which could befall them; but not the greatest. There is yet one greater, submission to a government of unlimited powers. It is only when the hope of avoiding this shall become absolutely desperate, that further forbearance could not be indulged. Should a majority of the co-parties, therefore, contrary to the expectation and hope of this assembly, prefer, at this time, acquiescence in these assumptions of power by the federal member of the government, we will be patient and suffer much, under the confidence that time, ere it be too late, will prove to them also the bitter consequences in which that usurpation will involve us all. In the meanwhile, we will breast with them, rather than separate from them, every misfortune, save that only of living under a government of unlimited powers. We owe every other sacrifice to ourselves, to our federal brethren, and to the world at large, to pursue with temper and perseverance the great experiment which shall prove that man is capable of living in society, governing itself by laws self-imposed, and securing to its members the enjoyment of life, liberty, property, and peace; and further to show, that even when the government of its choice shall manifest a tendency to degeneracy, we are not at once to despair but that the will and the watchfulness of its sounder parts will reform its aberrations, recall it to original and legitimate principles, and restrain it within the rightful limits

of self-government. And these are the objects of this Declaration and Protest.

Supposing then, that it might be for the good of the whole, as some of its co-States seem to think, that the power of making roads and canals should be added to those directly given to the federal branch, as more likely to be systematically and beneficially directed, than by the independent action of the several States, this commonwealth, from respect to these opinions, and a desire of conciliation with its co-States, will consent, in concurrence with them, to make this addition, provided it be done regularly by an amendment of the compact, in the way established by that instrument, and provided also, it be sufficiently guarded against abuses, compromises, and corrupt practices, not only of possible, but of probable occurrence.

And as a further pledge of the sincere and cordial attachment of this commonwealth to the union of the whole, so far as has been consented to by the compact called "The Constitution of the United States of America," (constructed according to the plain and ordinary meaning of its language, to the common intendment of the time, and of those who framed it;) to give also to all parties and authorities, time for reflection and for consideration, whether, under a temperate view of the possible consequences, and especially of the constant obstructions which an equivocal majority must ever expect to meet, they will still prefer the assumption of this power rather than its acceptance from the free will of their constituents; and to preserve peace in the meanwhile, we proceed to make it the duty of our citizens, until the legislature shall otherwise and ultimately decide, to acquiesce under those acts of the federal branch of our government which we have declared to be usurpations, and against which, in point of right, we do protest as null and void, and never to be quoted as precedents of right.

We therefore do enact, and be it enacted by the General Assembly of Virginia, that all citizens of this commonwealth, and persons and authorities within the same, shall pay full obedience at all times to the acts which may be passed by the Congress of the United States, the object of which shall be the construction

of post roads, making canals of navigation, and maintaining the same in any part of the United States, in like manner as if said acts were, *totidem verbis*, passed by the Legislature of this Commonwealth.

XLVIII.

Thoughts on Lotteries. February, 1826.

It is a common idea that games of chance are immoral. But what is chance? Nothing happens in this world without a cause. If we know the cause, we do not call it chance; but if we do not know it, we say it was produced by chance. If we see a loaded die turn its lightest side up, we know the cause, and that it is not an effect of chance; but whatever side an unloaded die turns up, not knowing the cause, we say it is the effect of chance. Yet the morality of a thing cannot depend on our knowledge or ignorance of its cause. Not knowing why a particular side of an unloaded die turns up, cannot make the act of throwing it, or of betting on it, immoral. If we consider games of chance immoral, then every pursuit of human industry is immoral; for there is not a single one that is not subject to chance, not one wherein you do not risk a loss for the chance of some gain. The navigator, for example, risks his ship in the hope (if she is not lost in the voyage) of gaining an advantageous freight. The merchant risks his cargo to gain a better price for it. A landholder builds a house on the risk of indemnifying himself by a rent. The hunter hazards his time and trouble in the hope of killing game. In all these pursuits, you stake some one thing against another which you hope to win. But the greatest of all gamblers is the farmer. He risks the seed he puts into the ground, the rent he pays for the ground itself, the year's labor on it, and the wear and tear of his cattle and gear, to win a crop, which the chances of too much or too little rain, and general uncertainties of weather, insects, waste, &c., often make a total or partial loss. These, then, are games of chance. Yet so far from being immoral, they are indispensable to the existence of

man, and every one has a natural right to choose for his pursuit such one of them as he thinks most likely to furnish him subsistence. Almost all these pursuits of chance produce something useful to society. But there are some which produce nothing, and endanger the well-being of the individuals engaged in them, or of others depending on them. Such are games with cards, dice, billiards, &c. And although the pursuit of them is a matter of natural right, yet society, perceiving the irresistible bent of some of its members to pursue them, and the ruin produced by them to the families depending on these individuals, consider it as a case of insanity, *quoad hoc*, step in to protect the family and the party himself, as in other cases of insanity, infancy, imbecility, &c., and suppress the pursuit altogether, and the natural right of following it. There are some other games of chance, useful on certain occasions, and injurious only when carried beyond their useful bounds. Such are insurances, lotteries, raffles, &c. These they do not suppress, but take their regulation under their own discretion. The insurance of ships on voyages is a vocation of chance, yet useful, and the right to exercise it therefore is left free. So of houses against fire, doubtful debts, the continuance of a particular life, and similar cases. Money is wanting for a useful undertaking, as a school, &c., for which a direct tax would be disapproved. It is raised therefore by a lottery, wherein the tax is laid on the willing only, that is to say, on those who can risk the price of a ticket without sensible injury for the possibility of a higher prize. An article of property, insusceptible of division at all, or not without great diminution of its worth, is sometimes of so large value as that no purchaser can be found while the owner owes debts, has no other means of payment, and his creditors no other chance of obtaining it but by its sale at a full and fair price. The lottery is here a salutary instrument for disposing of it, where many run small risks for the chance of obtaining a high prize. In this way the great estate of the late Colonel Byrd (in 1756) was made competent to pay his debts, which, had the whole been brought into the market at once, would have overdone the demand, would have sold at half or quarter the value, and sacrificed the creditors, half

or three-fourths of whom would have lost their debts. This method of selling was formerly very much resorted to, until it was thought to nourish too much a spirit of hazard. The legislature were therefore induced not to suppress it altogether, but to take it under their own special regulation. This they did for the first time by their act of 1769, c. 17, before which time every person exercised the right freely; and since which time, it is made unlawful but when approved and authorized by a special act of the legislature.

Since then this right of sale, by way of lottery, has been exercised only under the jurisdiction of the legislature. Let us examine the purposes for which they have allowed it in practice, not looking beyond the date of our independence.

1. It was for a long time an item of the standing revenue of the State.

1813. c. 1, § 3. An act imposing taxes for the support of government, and c. 2, § 10.
1814. Dec. c. 1, § 3. 1814. Feb. c. 1, § 3. 1818. c. 1, § 1.
1819. c. 1. 1820. c. 1.

This, then, is a declaration by the nation, that an act was not immoral, of which they were in the habitual use themselves as a part of the regular means of supporting the government: the tax on the vender of tickets was their share of the profits, and if their share was innocent, his could not be criminal.

2. It has been abundantly permitted to raise money by lottery for the purposes of schools; and in this, as in many other cases, the lottery has been permitted to retain a part of the money (generally from ten to fifteen per cent.) for the use to which the lottery has been applied. So that while the adventurers paid one hundred dollars for tickets, they received back eighty-five or ninety dollars only in the form of prizes, the remaining ten or fifteen being the tax levied on them, with their own consent. Examples are,

1784. c. 34. Authorizing the city of Williamsburg to raise £2,000 for a grammar school.

1789. c. 68. For Randolph Academy, £1,000.
1789. c. 73. For Fauquier Academy, £500.
c. 74. For the Fredericksburg Academy, £4,000.
1790. c. 46. For the Transylvanian Seminary, £500
For the Southampton Academy, £300.
1796. c. 82. For the New London Academy.
1803. c. 49. For the Fredericksburg Charity School.
c. 50. For finishing the Strasburg Seminary.
c. 58. For William and Mary College.
c. 62. For the Bannister Academy.
c. 79. For the Belfield Academy.
c. 82. For the Petersburg Academy.
1804. c. 40. For the Hotsprings Seminary.
c. 76. For the Stevensburg Academy.
c. 100. For William and Mary College.
1805. c. 24. For the Rumford Academy.
1812. c. 10. For the Literary Fund. To sell the privilege for $30,000 annually, for seven years.
1816. c. 80. For Norfolk Academy, $12,000.
Norfolk Female Society, $2,000.
Lancastrian School, $6,000.

3. The next object of lotteries has been rivers.

1790. c. 46. For a bridge between Gosport and Portsmouth, £400.
1796. c. 83. For clearing Roanoke River.
1804. c. 62. For clearing Quantico Creek.
1805. c. 42. For a toll bridge over Cheat River.
1816. c. 49. For the Dismal Swamp, $50,000.

4. For roads.

1790. c. 46. For a road to Warminster, £200.
For cutting a road from Rockfish gap to Scott's and Nicholas's landing, £400.
1796. c. 85. To repair certain roads

* The acts not being at hand, the sums allowed are not known.

1803. c. 60. For improving roads to Snigger's and Ashby's gaps.
c. 61. For opening a road to Brock's gap.
c. 65. For opening a road from the town of Monroe to Sweet Springs and Lewisburg.
c. 71. For improving the road to Brock's gap.
1805. c. 5. For improving the road to Clarksburg.
c. 26. For opening a road from Monongalia Glades to Fishing Creek.
1813. c. 44. For opening a road from Thornton's gap.

5. Lotteries for the benefit of counties.

1796. c. 78. To authorize a lottery in the county of Shenandoah.
c. 84. To authorize a lottery in the county of Gloucester.

6. Lotteries for the benefit of towns.

1782. c. 31. Richmond, for a bridge over Shockoe, amount not limited.
1789. c. 75. Alexandria, to pave its streets, £1,500.
1790. c. 46. do. do. £5,000.
1796. c. 79. Norfolk, one or more lotteries authorized.
c. 81. Petersburg, a lottery authorized.
1803. c. 12. Woodstock, do.
c. 48. Fredericksburg, for improving its main street.
c. 73. Harrisonburg, for improving its streets.

7. Lotteries for religious congregations.

1785. c. 111. Completing a church in Winchester.
For rebuilding a church in the parish of Elizabeth River.
1791. c. 69. For the benefit of the Episcopal society.
1790. c. 46. For building a church in Warminster, £200.
in Halifax, £200.
in Alexandria, £500.
in Petersburg, £750.
in Shepherdstown, £250.

8. Lotteries for private societies.

1790. c. 46. For the Amicable Society in Richmond, £1,000.
1791. c. 70. For building a Freemason's Hall in Charlotte, £750.

9. Lotteries for the benefit of private individuals. [To raise money for them.]

1796. c. 80. For the sufferers by fire in the town of Lexington.
1781. c. 6. For completing titles under Byrd's lottery.
1790. c. 46. To erect a paper mill in Staunton, £300.
To raise £2,000 for Nathaniel Twining.
1791. c. 73. To raise £4,000 for William Tatham, to enable him to complete his geographical work.
To enable ——— to complete a literary work.*

We have seen, then, that every vocation in life is subject to the influence of chance; that so far from being rendered immoral by the admixture of that ingredient, were they abandoned on that account, man could no longer subsist; that, among them, every one has a natural right to choose that which he thinks most likely to give him comfortable subsistence; but that while the greater number of these pursuits are productive of something which adds to the necessaries and comforts of life, others again, such as cards, dice, &c., are entirely unproductive, doing good to none, injury to many, yet so easy, and so seducing in practice to men of a certain constitution of mind, that they cannot resist the temptation, be the consequences what they may; that in this case, as in those of insanity, idiocy, infancy, &c., it is the duty of society to take them under its protection, even against their own acts, and to restrain their right of choice of these pursuits, by suppressing them entirely; that there are others, as lotteries particularly, which, although liable to chance also, are useful for many purposes, and are therefore retained and placed under the discretion of the Legislature, to be permitted or refused according to the circumstances of every special case, of which they are to judge; that between the years 1782 and 1820, a space of thirty-

* I found such an act, but not noting it at the time, I have not been able to find it again. But there is such an one.

eight years only, we have observed seventy cases, where the permission of them has been found useful by the Legislature, some of which are in progress at this time. These cases relate to the emolument of the whole State, to local benefits of education, of navigation, of roads, of counties, towns, religious assemblies, private societies, and of individuals under particular circumstances which may claim indulgence or favor. The latter is the case now submitted to the Legislature, and the question is, whether the individual soliciting their attention, or his situation, may merit that degree of consideration which will justify the Legislature in permitting him to avail himself of the mode of selling by lottery, for the purpose of paying his debts.

That a fair price cannot be obtained by sale in the ordinary way, and in the present depressed state of agricultural industry, is well known. Lands in this State will now sell for more than a third or fourth of what they would have brought a few years ago, perhaps at the very time of the contraction of the debts for which they are now to be sold. The low price in foreign markets, for a series of years past, of agricultural produce, of wheat generally, of tobacco most commonly, and the accumulation of duties on the articles of consumption not produced within our State, not only disable the farmer or planter from adding to his farm by purchase, but reduces him to sell his own, and remove to the western country, glutting the market he leaves, while he lessens the number of bidders. To be protected against this sacrifice is the object of the present application, and whether the applicant has any particular claim to this protection, is the present question.

Here the answer must be left to others. It is not for me to give it. I may, however, more readily than others, suggest the offices in which I have served. I came of age in 1764, and was soon put into the nomination of justice of the county in which I live, and at the first election following I became one of its representatives in the Legislature.

I was thence sent to the old Congress.

Then employed two years with Mr. Pendleton and Mr. Wythe, on the revisal and reduction to a single code of the whole body

of the British statutes, the acts of our Assembly, and certain parts of the common law.

Then elected Governor.

Next to the Legislature, and to Congress again.

Sent to Europe as Minister Plenipotentiary.

Appointed Secretary of State to the new government.

Elected Vice-President, and

President. And lastly, a Visitor and Rector of the University. In these different offices, with scarcely any interval between them, I have been in the public service now sixty-one years; and during the far greater part of the time, in foreign countries or in other States. Every one knows how inevitably a Virginia estate goes to ruin, when the owner is so far distant as to be unable to pay attention to it himself; and the more especially, when the line of his employment is of a character to abstract and alienate his mind entirely from the knowledge necessary to good, and even to saving management.

If it were thought worth while to specify any particular services rendered, I would refer to the specification of them made by the Legislature itself in their Farewell Address, on my retiring from the Presidency, February, 1809. [This will be found in 2 Pleasant's Collection, page 144.] There is one, however, not therein specified, the most important in its consequences, of any transaction in any portion of my life; to wit, the head I personally made against the federal principles and proceedings, during the administration of Mr. Adams. Their usurpations and violations of the constitution at that period, and their majority in both Houses of Congress, were so great, so decided, and so daring, that after combating their aggressions, inch by inch, without being able in the least to check their career, the republican leaders thought it would be best for them to give up their useless efforts there, go home, get into their respective Legislatures, embody whatever of resistance they could be formed into, and if ineffectual, to perish there as in the last ditch. All, therefore, retired, leaving Mr. Gallatin alone in the House of Representatives, and myself in the Senate, where I then presided as Vice-President. Remaining at our posts, and bidding defiance to the brow beat-

ings and insults by which they endeavored to drive us off also, we kept the mass of republicans in phalanx together, until the Legislature could be brought up to the charge ; and nothing on earth is more certain, than that if myself particularly, placed by my office of Vice-President at the head of the republicans, had given way and withdrawn from my post, the republicans throughout the Union would have given up in despair, and the cause would have been lost forever. By holding on, we obtained time for the Legislature to come up with their weight ; and those of Virginia and Kentucky particularly, but more especially the former, by their celebrated resolutions, saved the constitution at its last gasp. No person who was not a witness of the scenes of that gloomy period, can form any idea of the afflicting persecutions and personal indignities we had to brook. They saved our country however. The spirits of the people were so much subdued and reduced to despair by the X Y Z imposture, and other stratagems and machinations, that they would have sunk into apathy and monarchy, as the only form of government which could maintain itself.

If Legislative services are worth mentioning, and the stamp of liberality and equality, which was necessary to be imposed on our laws in the first crisis of our birth as a nation, was of any value, they will find that the leading and most important laws of that day were prepared by myself, and carried chiefly by my efforts ; supported, indeed, by able and faithful coadjutors from the ranks of the House, very effective as seconds, but who would not have taken the field as leaders.

The prohibition of the further importation of slaves was the first of these measures in time.

This was followed by the abolition of entails, which broke up the hereditary and high-handed aristocracy, which, by accumulating immense masses of property in single lines of families, had divided our country into two distinct orders, of nobles and plebeians.

But further to complete the equality among our citizens so essential to the maintenance of republican government, it was necessary to abolish the principle of primogeniture. I drew the

law of descents, giving equal inheritance to sons and daughters, which made a part of the revised code.

The attack on the establishment of a dominant religion, was first made by myself. It could be carried at first only by a suspension of salaries for one year, by battling it again at the next session for another year, and so from year to year, until the public mind was ripened for the bill for establishing religious freedom, which I had prepared for the revised code also. This was at length established permanently, and by the efforts chiefly of Mr. Madison, being myself in Europe at the time that work was brought forward.

To these particular services, I think I might add the establishment of our University, as principally my work, acknowledging at the same time, as I do, the great assistance received from my able colleagues of the Visitation. But my residence in the vicinity threw, of course, on me the chief burthen of the enterprise, as well of the buildings as of the general organization and care of the whole. The effect of this institution on the future fame, fortune and prosperity of our country, can as yet be seen but at a distance. But an hundred well-educated youths, which it will turn out annually, and ere long, will fill all its offices with men of superior qualifications, and raise it from its humble state to an eminence among its associates which it has never yet known; no, not in its brightest days. That institution is now qualified to raise its youth to an order of science unequalled in any other State; and this superiority will be the greater from the free range of mind encouraged there, and the restraint imposed at other seminaries by the shackles of a domineering hierarchy, and a bigoted adhesion to ancient habits. Those now on the theatre of affairs will enjoy the ineffable happiness of seeing themselves succeeded by sons of a grade of science beyond their own ken. Our sister States will also be repairing to the same fountains of instruction, will bring hither their genius to be kindled at our fire, and will carry back the fraternal affections which, nourished by the same *alma mater*, will knit us to them by the indissoluble bonds of early personal friendships. The good Old Dominion, the blessed mother of us all, will then

raise her head with pride among the nations, will present to them that splendor of genius which she has ever possessed, but has too long suffered to rest uncultivated and unknown, and will become a centre of ralliance to the States whose youth she has instructed, and, as it were, adopted.

I claim some share in the merits of this great work of regeneration. My whole labors, now for many years, have been devoted to it, and I stand pledged to follow it up through the remnant of life remaining to me. And what remuneration do I ask? Money from the treasury? Not a cent. I ask nothing from the earnings or labors of my fellow citizens. I wish no man's comforts to be abridged for the enlargement of mine. For the services rendered on all occasions, I have been always paid to my full satisfaction. I never wished a dollar more than what the law had fixed on. My request is, only to be permitted to sell my own property freely to pay my own debts. To *sell* it, I say, and not to *sacrifice* it, not to have it gobbled up by speculators to make fortunes for themselves, leaving unpaid those who have trusted to my good faith, and myself without resource in the last and most helpless stage of life. If permitted to sell it in a way which will bring me a fair price, all will be honestly and honorably paid, and a competence left for myself, and for those who look to me for subsistence. To sell it in a way which will offend no moral principle, and expose none to risk but the willing, and those wishing to be permitted to take the chance of gain. To give me, in short, that permission which you often allow to others for purposes not more moral.

Will it be objected, that although not evil in itself, it may, as a precedent, lead to evil? But let those who shall quote the precedent bring their case within the same measure. Have they, as in this case, devoted three-score years and one of their lives, uninterruptedly, to the service of their country? Have the times of those services been as trying as those which have embraced our Revolution, our transition from a colonial to a free structure of government? Have the stations of their trial been of equal importance? Has the share they have borne in holding their new government to its genuine principles, been equally

marked? And has the cause of the distress, against which they seek a remedy, proceeded, not merely from themselves, but from errors of the public authorities, disordering the circulating medium, over which they had no control, and which have, in fact, doubled and trebled debts, by reducing, in that proportion, the value of the property which was to pay them? If all these circumstances, which characterize the present case, have taken place in theirs also, then follow the precedent. Be assured, the cases will be so rare as to produce no embarrassment, as never to settle into an injurious habit. The single feature of a sixty years' service, as no other instance of it has yet occurred in our country, so it probably never may again. And should it occur, even once and again, it will not impoverish your treasury, as it takes nothing from that, and asks but a simple permission, by an act of natural right, to do one of moral justice.

XLIX.

Mr. Jefferson's Will.

I, Thomas Jefferson, of Monticello, in Albemarle, being of sound mind and in my ordinary state of health, make my last will and testament in manner and form as follows:

I give to my grandson Francis Eppes, son of my dear deceased daughter Mary Eppes, in fee simple, all that part of my lands at Poplar Forest lying west of the following lines, to wit: beginning at Radford's upper corner, near the double branches of Bear Creek and the public road, and running thence in a straight line to the fork of my private road, near the barn; thence along that private road, (as it was changed in 1817,) to its crossing of the main branch of North Tomahawk Creek: and from that crossing, in a direct line over the main ridge which divides the North and South Tomahawk, to the South Tomahawk, at the confluence of two branches where the old road to the Waterlick crossed it, and from that confluence up the north-

ermost branch, (which separate M'Daniels' and Perry's fields,) to its source; and thence by the shortest line to my western boundary. And having, in a former correspondence with my deceased son-in-law John W. Eppes, contemplated laying off for him, with remainder to my grandson Francis, a certain portion in the southern part of my lands in Bedford and Campbell, which I afterwards found to be generally more indifferent than I had supposed, and therefore determined to change its location for the better; now to remove all doubt, if any could arise on a purpose merely voluntary and unexecuted, I hereby declare that what I have herein given to my said grandson Francis, is instead of, and not additional to, what I had formerly contemplated. I subject all my other property to the payment of my debts in the first place. Considering the insolvent state of the affairs of my friend and son-in-law Thomas Mann Randolph, and that what will remain of my property will be the only resource against the want in which his family would otherwise be left, it must be his wish, as it is my duty, to guard that resource against all liability for his debts, engagements or purposes whatsoever, and to preclude the rights, powers, and authorities over it, which might result to him by operation of law, and which might, independently of his will, bring it within the power of his creditors, I do hereby devise and bequeath all the residue of my property, real and personal, in possession or in action, whether held in my own right, or in that of my dear deceased wife, according to the powers vested in me by deed of settlement for that purpose, to my grandson Thomas J. Randolph, and my friends Nicholas P. Trist and Alexander Garrett, and their heirs, during the life of my said son-in-law Thomas M. Randolph, to be held and administered by them, in trust, for the sole and separate use and behoof of my dear daughter Martha Randolph, and her heirs; and aware of the nice and difficult distinction of the law in these cases, I will further explain by saying, that I understand and intend the effect of these limitations to be, that the legal estate and actual occupation shall be vested in my said trustees, and held by them in base fee, determinable on the death of my said son-in-law, and the remainder during the same

time be vested in my said daughter and her heirs, and of course disposable by her last will, and that at the death of my said son-in-law, the particular estate of the trustees shall be determined, and the remainder, in legal estate, possession, and use, become vested in my said daughter and her heirs, in absolute property forever. In consequence of the variety and indescribableness of the articles of property within the house at Monticello, and the difficulty of inventorying and appraising them separately and specifically, and its inutility, I dispense with having them inventoried and appraised; and it is my will that my executors be not held to give any security for the administration of my estate. I appoint my grandson Thomas Jefferson Randolph, my sole executor during his life, and after his death, I constitute executors my friends Nicholas P. Trist and Alexander Garrett, joining to them my daughter Martha Randolph, after the death of my said son-in-law Thomas M. Randolph. Lastly, I revoke all former wills by me heretofore made; and in witness that this is my will, I have written the whole with my own hand on two pages, and have subscribed my name to each of them this sixteenth day of March, one thousand eight hundred and twenty-six.

I, Thomas Jefferson, of Monticello, in Albemarle, make and add the following codicil to my will, controlling the same so far as its provisions go:

I recommend to my daughter Martha Randolph, the maintenance and care of my well beloved sister Anne Scott, and trust confidently that from affection to her, as well as for my sake, she will never let her want a comfort. I have made no specific provision for the comfortable maintenance of my son-in-law Thomas M. Randolph, because of the difficulty and uncertainty of devising terms which shall vest any beneficial interest in him, which the law will not transfer to the benefit of his creditors, to the destitution of my daughter and her family, and disablement of her to supply him: whereas, property placed under the exclusive control of my daughter and her independent will, as if she were a feme sole, considering the relation in which she

stands both to him and his children, will be a certain resource against want for all.

I give to my friend James Madison, of Montpellier, my gold-mounted walking staff of animal horn, as a token of the cordial and affectionate friendship which for nearly now an half century, has united us in the same principles and pursuits of what we have deemed for the greatest good of our country.

I give to the University of Virginia my library, except such particular books only, and of the same edition, as it may already possess, when this legacy shall take effect; the rest of my said library, remaining after those given to the University shall have been taken out, I give to my two grandsons-in-law Nicholas P. Trist and Joseph Coolidge. To my grandson Thomas Jefferson Randolph, I give my silver watch in preference of the golden one, because of its superior excellence. My papers of business going of course to him, as my executor, all others of a literary or other character I give to him as of his own property.

I give a gold watch to each of my grandchildren, who shall not have already received one from me, to be purchased and delivered by my executor to my grandsons, at the age of twenty-one, and granddaughters at that of sixteen.

I give to my good, affectionate, and faithful servant Burwell, his freedom, and the sum of three hundred dollars, to buy necessaries to commence his trade of glazier, or to use otherwise, as he pleases.

I give also to my good servants John Hemings and Joe Fosset, their freedom at the end of one year after my death; and to each of them respectively, all the tools of their respective shops or callings; and it is my will that a comfortable log-house be built for each of the three servants so emancipated, on some part of my lands convenient to them with respect to the residence of their wives, and to Charlottesville and the University, where they will be mostly employed, and reasonably convenient also to the interests of the proprietor of the lands, of which houses I give the use of one, with a curtilage of an acre to each, during his life or personal occupation thereof.

I give also to John Hemings the service of his two apprentices

Madison and Eston Hemings, until their respective ages of twenty-one years, at which period respectively, I give them their freedom; and I humbly and earnestly request of the legislature of Virginia a confirmation of the bequest of freedom to these servants, with permission to remain in this State, where their families and connections are, as an additional instance of the favor, of which I have received so many other manifestations in the course of my life, and for which I now give them my last, solemn, and dutiful thanks.

In testimony that this is a codicil to my will of yesterday's date, and that it is to modify so far the provisions of that will, I have written it all with my own hand in two pages, to each of which I subscribe my name, this seventeenth day of March, one thousand eight hundred and twenty-six.

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